



**Kenya National Highways Authority**

*Quality Highways, Better Connections*

GOVERNMENT OF KENYA



**RESETTLEMENT ACTION PLAN (RAP) UPDATED  
VERSION FOR**

**MARICH PASS-LODWAR 196 KM A1 ROAD**

**FINAL**

**SOUTH SUDAN-EA REGIONAL TRANSPORT TRADE AND  
DEVELOPMENT FACILITATION PROJECT**



**Ministry of Transport and Infrastructures**

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## ACRONYMS

<b>AIDS</b>	Acquired Immuno Deficiency Syndrome
<b>ACTED</b>	Agency for Technical and Development Initiatives
<b>APEI</b>	Alemun Pastoralist Empowerment Initiative
<b>CBO</b>	Community Based Organization
<b>CLB</b>	County Land Board
<b>CLB</b>	Community Land Board
<b>CPR</b>	Common Property Resource
<b>COK</b>	Constitution of Kenya
<b>CPS</b>	County Partnership Strategy
<b>CRS</b>	Catholic Relief Service
<b>DCC</b>	Deputy County Commissioner
<b>DRC</b>	Democratic Republic of Congo
<b>EAC</b>	East African Community
<b>ECD</b>	Early Childhood Development
<b>EGIS-BECEOM</b>	Design and Feasibility Contractor
<b>ERR</b>	Economic Rate of Return
<b>EIA</b>	Environmental Impact Assessment
<b>ESIA</b>	Environmental and Social Impact Assessment
<b>FAO</b>	Food and Agriculture Organization
<b>FY</b>	Financial Year
<b>GIS</b>	Geographical Information System
<b>GNI</b>	Gross National Income
<b>GOK</b>	Government of Kenya
<b>HIV</b>	Human Immuno Deficiency Syndrome
<b>ICT</b>	Information Communication Technology
<b>IDA</b>	International Development Association
<b>INGO</b>	International Non-Governmental Organization
<b>KARA</b>	Kenya Aid and Initiative Relief Effort
<b>KENHA</b>	Kenya National Highways Authority
<b>Kms</b>	Kilometers
<b>LA</b>	Land Act
<b>LOWASCO</b>	Lodwar Water and Sewerage Company
<b>MPLRIP</b>	Marich Pass Lodwar Improvement Project
<b>NGOs</b>	Non-governmental organisations
<b>NLC</b>	National Land Commission
<b>NLP</b>	National Land Policy
<b>IPM</b>	Internal Performance Monitoring
<b>O &amp; M</b>	Operation and Maintenance
<b>OP4.12</b>	Operational Policy 4.12
<b>PAD</b>	Project Appraisal Document
<b>PAP</b>	Project Affected Person
<b>PMT</b>	Project Management Team
<b>SS-EATTFDP</b>	South Sudan East African Regional Transport Trade and Development Facilitation



<b>RAP</b>	Resettlement Action Plan
<b>RC</b>	Resettlement Committee
<b>RCEA</b>	Redeemed Church of East Africa
<b>ROW</b>	Right of Way
<b>UNICEF</b>	United Nations Children Education Fund
<b>VCT</b>	Voluntary Counselling and Testing
<b>WATSAN</b>	Water and Sanitation
<b>WB</b>	World Bank
<b>WFP</b>	World Food Program
<b>WVI</b>	World Vision
<b>TORS</b>	Terms of References
<b>TTCA-NA</b>	Transit Transport Coordination Authority of Northern Corridor
<b>USAID</b>	United States Agency for International Development

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## **EXECUTIVE SUMMARY**

The Government of Kenya (GOK) through the Kenya National Highways Authority (KENHA) have proposed the improvement of the Marich Pass-Lodwar Road, an upgrade to the existing road that will, in the main, follow the current alignment. The Marich Pass-Lodwar Road Improvement Project (MPLRIP) is an important component in the realization of several vital international transportation strategies. Foremost among these plans is the Northern Corridor, which was validated with the formation of the Transit Transport Coordination Authority of the Northern Corridor (TTCA-NC) in the mid 1980s. The scheme originates in Kenya largely for the benefit of the land-locked Great Lakes States as well as South Sudan and Ethiopia. The corridor links Burundi, D.R. Congo, Ethiopia, Rwanda, South Sudan and Uganda to the Kenyan sea-port of Mombasa, the largest sea port in East Africa and the location of the TTCA-NC's secretariat. The corridor also serves Northern Tanzania with links to Arusha, the headquarters for the East African Community (EAC). Envisaged as one of two Northern Corridor links from Kenya to South Sudan, the MPLRIP, as part of an international road to be improved beyond Lodwar to Nadapal on the South Sudanese border, serves as one link from Mombasa through Eastern Equatoria State to Juba, the capital city of South Sudan.

A second prospective Northern Corridor link to Juba from Kenya entails improving the approximately 30 km road between Lokichoggio, which is located on Kenya's A1 and Nadapal, bypassing Lodwar, the terminus of MPLRIP. After reaching Nadapal from Lokichoggio, the second link utilizes the Nadapal-Juba Road. Along with the Northern Corridor's intention to link South Sudan with Mombasa through northwestern Kenya, the EAC has accorded the road segment between Lokichoggio and Lodwar with priority corridor status. Among the five main corridors identified by the EAC with strategic priority for completion of the Community's road network is Corridor 3, the Biharamulo-Sirari-Lodwar-Lokichoggio Road. In order to complete this and other priority corridors, upgrading and improvement are required.

### **Project Description**

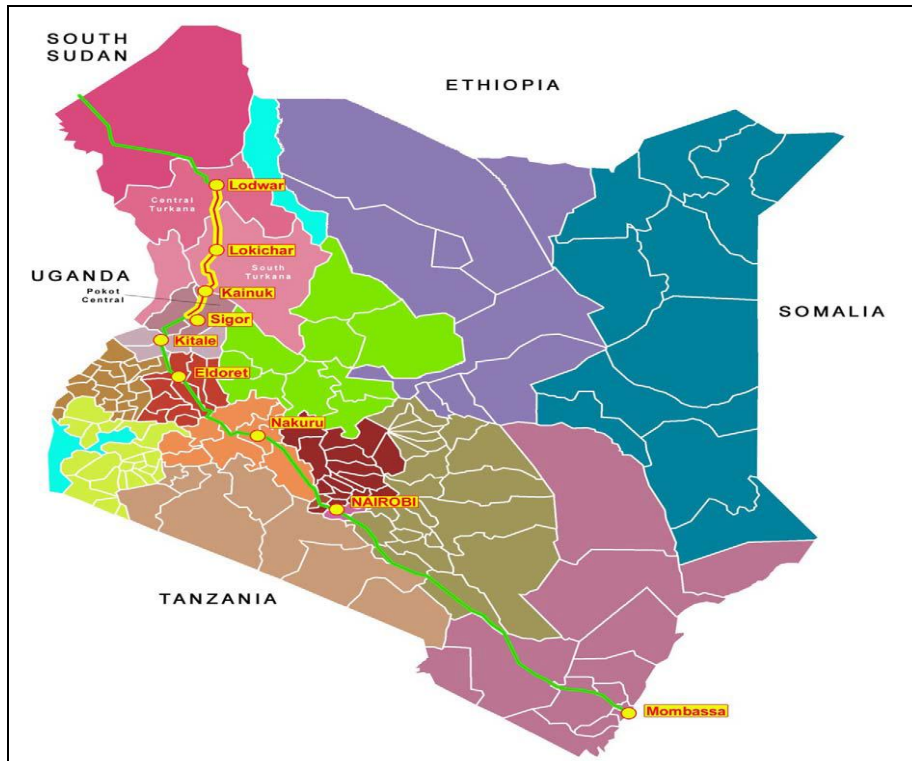
The improved Marich Pass-Lodwar Road will mostly follow the existing road alignment. However, particular sections of the current road will be realigned to improve travel speeds and road safety. The ROW and roadway will also be widened to meet national and international design standards. The planned realignments and ROW widening account for the displacement and relocation of current occupants and their properties, and they also necessitate the preparation and implementation a Resettlement Action Plan (RAP). From its origin in Marich Pass to its termination in Lodwar, the MPLRIP traverses two Counties (Turkana and West Pokot) and Sub Counties (Pokot Central, Turkana South and Turkana Central)-for a total project length of 196 kms.

In addition to its strategic transportation and communication purposes discussed above, the MPLRIP is vital to the realization of a number of national and international aims:

- To integrate fully West Pokot and Turkana County into the Kenyan economy;
- To underpin the rehabilitation and development of South Sudan's economy;
- To promote and facilitate regional economic integration between Sudan and Kenya;
- To develop the Northern Corridor's envisioned link to Juba, South Sudan, with the port of Mombasa;
- To provide landlocked South Sudan with direct road access to the port of Mombasa for its exports and imports;
- To facilitate ongoing relief and reconstruction efforts to all sectors of South Sudan's growth and development; and
- To contribute significantly to economic growth through increased trade and improved access to the port of Mombasa in the region's landlocked countries.

### **Project Location**

The MPLRI Project originates in Marich Pass, a village in Orwa sub location, Sekerr location, in the Pokot Central portion of West Pokot County. One of four sub locations in Sekerr location, the road passes through Orwa sublocation toward Kainuk, the latter in Turkana South District. From Kainuk, the road project moves more or less north through Kalemng'orok, Lokichar, Kasuroi, Lochang'ikamatak and Kimabur, the latter five settlements all within Turkana South Sub County. After passing through Kimabur, the project road moves into Turkana Central Sub County, after which it proceeds through Loturerei on to Lodwar, the project road terminus. **Figure 1** below locates the project road in the context of the Northern Corridor transportation scheme. The MPLRI Project is highlighted in bold yellow.



**Figure 1 Map of Northern Corridor road transport link between Mombasa to South Sudan (Project road in bold yellow)**

**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.

### **Reason For RAP Review and Update**

A Resettlement Action Plan was prepared in **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.

### **Displacement Potential**

The upgrading of these important road corridor is likely to lead to the displacement and/or relocation of persons, business, and/or disrupt economic activity along the Right of Way (ROW). Unless mitigated, it can also create various potentially adverse environmental and socio-economic effects in the form of displacement, disruptions of livelihoods, and loss of assets and property of project affected persons (PAPs).

A Resettlement Action Plan (RAP) is one of the major means of addressing problems associated with displacement in a planned and coordinated manner. Accordingly, Kenya National Highways Authority (KENHA), the implementing agency of the South Sudan East African Regional Transport Trade and Development Facilitation Project (SS-EATTFDP), contracted the services of an engineering consultancy firm, EGIS BECEOM International, to prepare a full feasibility study and ESIA/RAP for the project. In order to meet the Bank requirements the RAP has been subjected to a review and update by an independent RAP Consultant.

### **Objectives of the RAP**

According to the Terms of Reference (TOR) which guided the preparation of this RAP, the general objective of the RAP for the project is to identify and assess the impact of the project on project affected populations and formulate a RAP consisting of all appropriate measures and strategies which are necessary to mitigate the adverse effects of the project, restore and improve the income and livelihoods of PAPs.

#### **The specific objectives and tasks related to the preparation of the RAP included:**

- Identification and assessment of the impacts of the project on PAPs and communities in the project area, identify different options and alternatives to avoid or reduce displacement, of population and dislocation of livelihoods;
- Conducting census and socio-economic surveys of project affected areas and populations along the road corridor as a basis for identifying and measuring the types and magnitude of impact of the project and the associated displacement and loss of household and community assets in order to determine the required amounts of compensation and other resettlement measures and assistances for the restoration of income and livelihoods;
- Conduct public consultation with PAPs, county governments, and other stakeholders not only to ensure that their concerns and suggestions are taken in to account but also to promote the participation of the stakeholders in the planning, implementation and evaluation of the RAP;
- Design mechanisms and procedures for the resolution of conflict and redress of grievances arising from the implementation of the RAP and the project;
- Design the organizational and institutional arrangements necessary for the implementation of the RAP, including detailed allocation of responsibilities and coordination issues;
- Formulate a system for the monitoring, review and evaluation of the process and outcome of the implementation of the RAP;

- Formulate criteria for eligibility and entitlement as well as methods and mechanisms for the valuation of various categories of household and community assets for compensation, design appropriate strategies for restoration of the income and livelihood of PAPs, special support measures for vulnerable groups, and social and community development projects;
- Prepare a timetable for the implementation of the RAP with detailed time-bound schedules for its various components and activities.
- Prepare cost estimates and budget for the implementation of the RAP and its various components and activities;
- Undertaking a review of the relevant national and international policy, legal, and institutional frameworks and guidelines pertaining to involuntary resettlement, eminent domain and land tenure, expropriation and compensation, restoration and improvement of the income and livelihood of PAPs, etc.;

### **RAP Methodology**

A mix of various methods, tools and techniques were adopted to collect data and information required to prepare this Resettlement Action Plan (RAP). Both quantitative and qualitative data were gathered employing various methods and instruments. Sources of data and information used in this document can be grouped into two broad categories namely, primary and secondary sources. Details of data collection methods, tools and techniques are briefly discussed below.

### **Literature Review**

As secondary sources of information, literature available on issues of involuntary resettlement in general and the project area in particular was reviewed thoroughly. Some of the most important documents reviewed during preparation of this RAP include international policies, frameworks and guidelines, on the one hand and national policies, legal and institutional frameworks, and sectoral development plans. Other important documents reviewed include outputs of various research conducted in the project area and Environmental and Social Impact Assessment (ESIA) reports of the project itself.

### **Quantitative Methods of Data Collection**

#### ***Census Enumeration and Inventory of Assets***

**Sensitization and Familiarization Stage:** A team of experts visited the project area to initially sensitize the project among PAPs and National and County government officials. This mission helped not only to familiarize the study team to the project area but also to adapt various survey forms and instruments to local conditions. This was then followed by the design and development of the various survey instruments.

**Identification and Project Impact Boundary Delineation Stage:** This is a crucial stage where adverse project impacts were fully identified and understood leading to their quantification. A topographic survey was conducted to demarcate the actual boundaries of project impacts on the ground. In effect, the numbers of people and the nature and magnitude of impacts on property was clearly identified that are responsible for the

impacts.

**Socio-economic Surveys and Property Registration Stage:** A number of steps and procedures were adopted to ensure the accuracy of information collected and registration of affected property. The steps and procedures followed were as follows:

- a) The first step was recruitment and training of enumerators. A team of enumerators and supervisors were recruited locally and received training on basic interviewing techniques. This was then followed by a pilot survey. A pilot survey was conducted on about a dozen of households to test the whole survey instruments for clarity, accuracy and consistency in capturing data and information required. With minor modifications made to the survey questionnaires, the instruments were made ready for full-scale survey. **Annex 7-Field Survey Instruments**
- b) The second step was formation of an ad-hoc Committee comprised of local officials. A three-member ad-hoc Committee was formed at each affected village. Members of the Committee were drawn from National and County government administration one member drawn from the community elders or influential personalities. The survey instruments including property registration and valuation forms were presented to the Committee for discussion and final comments before launching full scale surveys and registration of property. This Committee is important in the identification of PAPs and for approving the legality of ownership of affected property by its claimant.
- c) The third and the last step during this stage was the supervision and administration of the actual field work. A complete census enumeration of all PAPs was carried out side by side with registration of affected property including land, housing and structures, crops and trees situated on land that will be affected by the project. In order to avoid or at least minimize complaints and grievances, counting and registration of affected assets was carried out in the presence of the ad-hoc Committee and in front of the person whose property is affected. Upon completion of the census enumeration and inventory of assets, a representative random sample of households was drawn from all project-affected households for a more detailed socio-economic survey. Structured questionnaires were administered to the sample households and detailed quantitative information on demographic and socio-economic characteristics of the households were collected. The sample was about 10% of the total households directly affected by the project.

Enumerators were closely supervised and supported by members of the study team and locally trained fieldwork supervisors. Upon completion of field data collection and registration of assets, data were checked for consistency, cleaned as necessary in preparation for electronic data entry and processing. Field data were then entered in to a database designed to store and process such data as and when required. Apart from being used as a raw material for the preparation of this RAP, the database will form part of the project electronic archives, data from which can be used throughout the project and beyond.



### **Community Level Surveys**

Another quantitative survey was conducted at a village level using structured questionnaire. This survey was designed to generate data and information, among other things, on availability or lack of social service facilities at community level. Interviews were conducted with County Government officials regarding existing levels of access to education, health, potable water and related services by members of their respective communities. This survey also captured information on local market prices as well as agricultural production and productivity, all of which were useful in valuation of assets and computation of compensation rates.

### **Qualitative Methods**

During and after census enumeration and registration of assets the social relations and organization of the affected communities were assessed and used to identify key stakeholders in the project. A series of consultations were held using both formal and informal meetings with key informants of the communities and all PAPs. All meetings were held within the affected villages and at the County and Sub County levels. Participants were selected from all cross-sections of the communities including age and gender. Consultations were carefully planned and conducted in such a way that ensures efficiency and effectiveness in covering key issues both from the PAPs and communities on the one hand, and the project interests on the other. Besides, consultations were held with local officials at village and sub County levels at several locations. Minutes of the discussions and questions and answers sessions were recorded and duly signed by all participants for documentation purposes.

## **Review of Policies, Legal and Institutional Frameworks**

In Kenya, there are several policy and legal documents that deal with land ownership, expropriation, entitlement, compensation and resettlement issues. Some of the key documents dealing with issues related to resettlement planning and operations include: The Constitution of the Government of Kenya (GoK), Land Act, Valuers Act, National Land Commission Act etc. All relevant policies, laws and administrative and institutional frameworks mentioned were reviewed to explore their adequacy in covering involuntary resettlement issues and to examine their consistency among themselves as well as international conventions, principles and frameworks that Kenya is a party to.

Policy, legal and institutional frameworks that deal with issues of involuntary resettlement are all in place in Kenya. Existing legislations and institutional frameworks are not only comprehensive in terms of covering resettlement issues, but they are also very detailed providing justification and procedures for expropriation, property valuation, computing compensation rates, compensation payments, and mechanism for grievance redress. Secondly, various policies, both national and sectoral, are such that they encourage project sponsors to avoid, as much as possible, projects that cause displacement of people. When displacement of people becomes unavoidable, then the policy principles, institutions and structures of the GoK provide for the adoption of a wider developmental approach, which seeks to share the benefits of the development project with Project Affected Persons (PAPs) and local communities.

The principle here is that development projects at least should not impoverish people by degrading the physical environment and or letting their costs pass through to PAPs and members of local communities. Thirdly, national policies, legislations and regulations are all in conformity with one another. The national policy and legal frameworks are also consistent with the World Bank's Operational Policies (OP 4.12) and Bank Procedures (BP 4.12) on involuntary resettlement. Moreover, the national frameworks are also consistent with international conventions, treaties, and frameworks, which Kenya is a party to.

## **Census and Socioeconomic Survey**

The census and the socio-economic study for the preparation of the RAP was undertaken in **June 2012** 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 **21<sup>st</sup> June 2012**. 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 enumerated 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 (**21<sup>st</sup> June 2012**). However a new cut off date (**31<sup>st</sup> 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 approach 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 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.

A census enumeration and socio-economic survey were conducted in the project-affected communities. The following are among the major objectives of the survey:

- To understand the scale and nature of project impacts on local communities;
- To identify PAPs and map out their social and economic characteristics,
- To establish institutional arrangements for the implementation of the Resettlement Action Plan (RAP) activities,
- To obtain information needed for entitlement and compensation payments for lost assets, and;
- To generate baseline data for monitoring and evaluation of livelihoods and income restoration and other sustainable development components of the RAP.

According to the 2014 December census survey aimed at validating and updating the RAP, the project will affect the following number of household, structures, tress and graves as shown in **Table 2** below. **Box 1** below shows the summary of the findings from the socio-economic survey, which was conducted in parallel with the census survey.

### **Box 1–Socio-Economic Findings**

#### **Socio-Economic Survey Findings**

- Nearly 80 % of the heads of households have no formal education.
- 93.5 % are married while the remaining 6.5 % are either singles or widowers.
- Many household that potentially vulnerable include female heads of households, the elderly, persons with disabilities and those who are said to be the poorest of the poor.
- Livelihood diversification is common a number of household keep (crop and livestock) as a base livelihood activity.
- Small-scale trade, artisan, handicrafts, and casual labour are amongst the most widely practiced non-farm livelihood activities in the households.
- In terms of cash income, livestock is the major economic activity contributing over 52% of total annual cash income for the households. Perhaps due to chronically food-insecure nature of households in the project area, cash transfers through Food for Work (FFW) are one of the major sources of cash income among the project-affected households.
- Purchase of food supplies, which accounts for nearly two-thirds of the total annual expenditure, is the most important category of expenditure among the households. Investments and financial transfers accounted for 27% of the total annual expenditure among the survey households. With a contribution of about 9% of the total, expenditures related to social and religious obligations are also significant among the households.

### Economic Conditions and Livelihood Activities

Although livestock keeping and small scale farming is indisputably the primary occupation and source of income and subsistence for the majority of the population in the project area, non-farm livelihood and income generating activities play a role in the local economy and in the livelihoods of households in the project area including: small-scale trade, artisan and handcraft, the collection and sale of firewood, charcoal and grass, daily wage labor, etc. Generally, it is well-known that incomes are very low and poverty is widespread and deep in many parts of the project area, due to a combination of factors and causes such as: low and dwindling resource base (land, livestock, etc.); backward technology, low productivity and the subsistence nature of production; limited access to public services and infrastructure; and exposure to shocks and vulnerability (drought, human and livestock disease).

### Summary of Project Impacts

The overall impact of the project is minimal in view of the fact that **no land** and **280** households will be affected with majority being roadside vendors who ply their trade along the road corridor. All the 289 PAHs will be relocated as a result of the project and this is because they have business structures along the Right Of Way (ROW). They have no entitlement for loss of land since they are considered to be squatters by encroaching on GOKs ROW. The project however as a mitigation measure 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 entrepreneurs.

An estimated **408 structures** (temporary, permanent, semi-permanent, makeshift), which are mainly temporary or semi-permanent, will be affected as is shown below. An estimated **208 trees** and **43 graves** will also be affected. **Table 1** below shows the number of affected PAPs by settlement area while **Table 2** shows overall impact by category (HH, structures, trees and graves).

**Table 1. Summary of Project Affected PAPs**

Settlement	District	Number of Affected PAHs
Marich Pass	Pokot Central	30
Kainuk	Turkana South	43
Kalemng'orok	Turkana South	24
Lokichar	Turkana South	11
Kasuroi	Turkana South	23
Lochaang'ikamatak	Turkana South	19
Lochoromoit	Turkana South	55
Kimabur	Turkana South	03
Loturerei	Turkana Central	21
<b>Total</b>		<b>280</b>

The majority of people to be affected are from Turkana South with a total of 178 affected households. In Turkana Central, a total of 72 households are affected; and, in Pokot Central, a total of 30 households will be affected in Orwa Sub location at Orwa Trading Centre and Marich Pass.

**Table 2. Summary of Impact By Category**

Affected HH	Affected Structures	Trees Loss	Affected Graves
280	408	208	43

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 and commerce and have established businesses on the road reserves more so targeting commuters and this explains the moderate number of existing PAPs along a road reserve.

**Table 3. Summary of Resettlement Impacts and Mitigation Measures**

Impacts	Mitigation
<b>Individual losing land, property and other immovable investment</b>	KENHA will ensure that all affected people are compensated fully, fairly and promptly and in accordance to this RAP.
<b>Individual losing access to livelihoods</b>	All PAPs who will lose land, buildings/houses, crops or sources of income or livelihoods will be fully compensated or rehabilitated according to this RAP, based on their losses to ensure that at least they can restore their livelihoods to that of the pre-project level.
<b>Loss of business</b>	To mitigate the loss, the implementing agency will compensate and initiate livelihood restoration programs. The program will include training on start-up enterprises, business training skills and assistance in establishment of alternative livelihood structures
<b>Loss of structures</b>	Full replacement cost will be paid for every structure lost including an additional disturbance allowance for the inconvenience caused. Adequate time will be given to the PAPs to establish their new homes and settlements prior to being evicted from Right of Way (ROW) and after payment of compensation.
<b>Loss of cultural resources e.g. graves</b>	The implementing agency KENHA will assist in the relocation and cleansing rites for transfer of graves prior to de-commissioning of the project sites. To deal with the issue of emotional attachments to graves of PAPs' loved ones, the graves will be relocated or re-buried within the vicinity of PAPs' homesteads.
<b>Possible entrance of newcomers to the project area</b>	It is recommended that the implementing agency and County governments agencies work cooperatively to put in place measures to protect the locals and their land from influx of new workers.

	This could be through ensuring that jobs are offered to the local community members where possible.
<b>Loss of Grazing Areas/Pastureland</b>	It is recommended that the implementing agency, KENHA and County government agencies help the pastoralists establish alternative grazing areas. Road Safety training of pastoralists on road use and animal crossing should be undertaken.

**Table 4. Entitlement Matrix**

<b>Affected Asset</b>	<b>Affected Right or Interest</b>	<b>Eligible Entity (Individual or Household)</b>	<b>Eligibility Conditions</b>	<b>Entitlements</b>
<b>AGRICULTURAL LAND OWNERS</b>	<b>TITLED LAND:</b> Land held under a registered title deed	Registered land (usually a physical person – one case in the Project-Affected Area)	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, taking into account market values for land, or non-cash compensation of land (land for land)  Cash compensation of all immovable developments on the affected land, such as structures, etc.... - See below “Structures”  Cash compensation of standing crops – See below “Crops”
	<b>UNTITLED LAND:</b> 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, taking into account market values for the land, or non-cash compensation of land (land for land)  Cash compensation of

Affected Asset	Affected Right or Interest	Eligible Entity (Individual or Household)	Eligibility Conditions	Entitlements
				<p>all immoveable developments on the affected land, etc.... - See below "Structures"</p> <p>Cash compensation of standing crops – See below "Crops"</p>
	<p><b>RENTED LAND:</b> Land rights obtained temporarily as per a customary rental agreement</p>	<p>Tenant as recognized by the customary landowner and customary authorities whether resident or non-resident– <b>INDIVIDUAL</b></p>	<p>Occupy land prior to the Cut-Off date as per a rental agreement recognized by the land owner and customary authorities</p>	<p>No compensation for the land itself</p> <p>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"</p> <p>Cash compensation of standing crops – See below "Crops"</p>
<p>Permanent residents, also customary holders of agricultural land</p>		<p>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</p>		<p>- Resettlement house of similar or better quality on a resettlement plot (best practice) or cash compensation of the lost house at full replacement value</p> <p>- 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</p> <p>- Cash compensation</p>



Affected Asset	Affected Right or Interest	Eligible Entity (Individual or Household)	Eligibility Conditions	Entitlements
				<p>of all immoveable developments on the affected agricultural land, such as structures, canals, soil improvement, etc....</p> <ul style="list-style-type: none"> <li>- Cash compensation of standing perennial crops at replacement value and of non-perennial crops at market value</li> <li>- Moving allowance if the household vacates the Project-Affected Area at a given date</li> <li>- Livelihood restoration package</li> </ul>
<b>STRUCTURES</b>	<p><b>RESIDENTIAL HOUSES:</b> Inhabitable houses used as a permanent residence</p>	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 Cash compensation of the lost house per Kenyan law at full replacement value, taking into account market values for the structures
	<p><b>NON RESIDENTIAL STRUCTURES:</b> Non inhabitable house or other structure of any design</p>	Owner - INDIVIDUAL	Be the locally recognized owner of a non residential structure	Cash compensation at full replacement value, taking into account market values of the structures and materials
<b>BUSINESS OWNERS INCLUDING ROADSIDE VENDORS (Squatters/Encroachers on ROW)</b>	<p>PAPS who business types of structures (permanent or temporary) for businesses on GOK's ROW and are hence squatters/encroachers</p> <p>Disruption of various Private Businesses</p> <p>Mobile vendors who sell wares along the road corridor</p>	Compensation for the entire structure at replacement cost as determined by the concerned appraisal committee without deduction for salvaged building materials.		<p>Restorative compensation in accordance with the land Act. No compensation for land</p> <p>Restorative compensation includes disturbance allowance, severance and injurious affection</p> <p>Disturbance allowance</p>

Affected Asset	Affected Right or Interest	Eligible Entity (Individual or Household)	Eligibility Conditions	Entitlements
	specifically in major centres but with no structures (permanent or temporary)			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
<b>CROPS</b>	<b>STANDING NON PERENNIAL CROPS</b>	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
	<b>STANDING PERENNIAL CROPS</b>	Owner of the crop – INDIVIDUAL	Be the recognized owner of a standing perennial crop	Cash compensation at full replacement value

### 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 trees:** 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.

### Public Consultations and Disclosure

As a continuous activity, the project has initiated public consultations and disclosure from the outset and the project is committed to continue the process throughout the project life. As part of this continuous process, a series of public consultations were carried out with PAPs, community groups and local officials during a fieldwork for the census and socio-economic surveys. Consultations were carefully planned and conducted to ensure efficiency and effectiveness in covering key issues both from the PAPs and communities on the one hand, and the project interests on the other. A total of 5 consultations involving 232 PAPs were held at different locations along the project corridor as shown in **Table 5** below.

**Table 5. Consultations Along Project Corridor**

Location of the Meeting	Date of the meeting	No. of Participants
Napatet – Lodwar	2 <sup>nd</sup> December 2014	33
Lokichar	3 <sup>rd</sup> December 2014	63
Kainuk	4 <sup>th</sup> December 2014	66
Kakuma Chiefs Camp	5 <sup>th</sup> December 2014	30
Lokichoggio, Dos place	6 <sup>th</sup> December 2014	40
<b>Total Participants</b>		<b>232</b>

Key agenda points that were covered during public consultations included: *impacts of the project*—both positive and negative on PAPs and local community members; issues regarding property registration and valuation for compensation; cut-off-date, presentation and discussion of compensation options and choices available to PAPs and availability of skills and opportunities for participation in income and livelihood restoration schemes. There was broad consensus and support for the project by the PAPs. However, PAPs expressed concerns over the following issues during the consultations as shown in **Table 6** below.

**Table 6. Summary of outcome of the PAP consultation**

<b>Anxiety, Fears, Concerns and Uncertainties</b>	
Issues	Response
We do not know how much we are going to receive in compensation payment for loss of assets,	All PAPs will be compensated based on the results of the valuation which is being undertaken using replacement costs for structures and market rates for land
What will happen if the cash compensation turns out to be inadequate to replace lost assets – let alone restoring lost income and livelihoods,	A grievance redress mechanism has been established with PAPs represented to handle grievances arising from compensation
We do not know the dates when compensation payments commence so that we can plan self-relocation,	All PAPs will be informed in advance at least 3 months on when to relocate after compensation
How will we know that our affected land and property is measured accurately and recorded or registered appropriately? Some affected property is	Valuation exercise will be conducted in a transparent manner with all PAPs present and explanation on the valuation process provided for

not registered by oversight. What are the chances for correcting mistakes in registration of affected property?	each PAP. Errors made will be resolved through the grievance committees
What if the impact of the road affects farmers beyond the often-mentioned 40 meters width?	Land outside of the ROW/40 m will be compensated.
What will happen if some of the property registered for compensation goes missing during actual compensation? What if we eat from crops that are registered for compensation?	Any structure, land or asset valued before the cut of date will be compensated whether they exist or not at the time of compensation. Any new structure after cut off date will not be compensated
Those of us who are of old ages, no matter how much money we receive in compensation, is not going to help us as we are unable to do much with it.	Money management training will be given to all PAPs and specifically to the vulnerable groups i.e. aged etc

<b>Preferences and Demands</b>	
<b>Issues</b>	<b>Response</b>
We do not want “land for land” compensation, just cash compensation,	The Project prefers land for land but will consider cash as well
We do not want to lose our kinship ties and social networks. If we receive timely and adequate compensation, we can relocate ourselves and reintegrate into existing communities,	This is noted
We need provision for transportation expenses during relocating our property,	The RAP will cater for disturbance and moving allowance
We demand that all PAPs are embraced in the various Food Security Programmes currently underway in the area,	This is noted
We demand that compensation payments are made as soon as possible,	Compensation will be made 3 months before project construction commences
Please, commence the civil work as soon as possible,	Civil work will only commence when all PAPs have been compensated
Those of us who use land given to us by our parents or inherited from them demand compensation payment for lost land, though the title of the land is in our parents’ names,	All households will be compensated including those owning land customarily
We trust that all affected property are included and registered accurately,	The RAP will value all the assets in the project affected area
Perennial crops are intergenerational in nature. I don’t think this fact has been understood and appreciated.	The project understand the difference between perennial and annual crops and will compensate these differently
Because, we, the current owners of property, are compensated for such loses. But, what about our children who would have depended on the same crops that the project destroys today?	Compensation will be provided to households based on existing property

<b>Expectations, Hopes, Aspiration and Needs</b>	
<b>Issues</b>	<b>Responses</b>
Given very poor availability of social service facilities in our area, we ask the government (project) to provide support to the construction and or maintenance of such facilities as public health, veterinary clinics, schools, potable water supply, electricity, and telecommunications,	The project has a social investment component aimed at providing services like water and roadside amenities including market centres

We elderly people expect to be provided by special assistance,	Elderly are grouped as vulnerable and additional assistance will be provided to them
Project affected persons should be given a special consideration in all available employment opportunities, both short-term and long-term, We hope and aspire to help ourselves through using compensation payments for useful and productive purposes such as building dwellings, opening retail shops and business, opening restaurants to serve the demand that might come with the project, engaging in agricultural goods trading, organize ourselves into groups and engage in services such as ground transport (vehicular) and grain milling.	This is noted

<b>Benefits and Appreciation</b>	
<b>Issues</b>	<b>Responses</b>
The road component will open up opportunities and improve access to markets and services. We are rather lucky that the road cuts across our neighborhood, We agree on and pledge to observe the cut-off date as per the project request,	Thank you
We elderly people expect to be provided by special assistance,	Elderly are grouped as vulnerable and additional assistance will be provided to them

<b>Questions and Clarifications</b>	
<b>Issues</b>	<b>Responses</b>
As the farming season has already approached we need to know the verdict of affected land. Can we use the land until we receive compensation?	You may use the land until you will be provided with notice to vacate which is in advance of 3-6 months
What are the plans for family graves that will be affected?	Graves will be moved in accordance with the local customs and practices to new gravesites within the compounds of the PAP
Can we use the affected farmland temporarily to grow annual crops?	Yes until construction commences
What about the indirect impact of the road component on farmers residing close to it? They will be affected adversely by dust, noise and rolling stones during civil works,	There is an ESIA report under development which will design mitigation measures for impacts on environment
Who are the people nominated to do the property valuation?	Valuation is done by independent consultants-valuation experts in the presence of the PAPs
What are the procedures put in place to effect compensation payments?	Compensation will be done through cheques to the account of the PAPs. All PAPs will be requested to open a bank account. Payment may be through MPESA but upon verification of all PAP details.

As its public disclosure strategy, the project, in addition to the ongoing and continuous iterative and interactive process of consultations at all levels, will organize and host a national consultative workshop and present this RAP and other project related facts and findings for discussion and comments. Besides, the project will create and host a dynamic and interactive project web site to reach out all stakeholders at all levels to

provide project related news and information and solicit their views on same throughout the project life.

### **Income and Livelihood Restoration Strategies**

The income restoration and improvement plan which directly targets PAPs incorporates various strategies and component activities including: land-agriculture based strategies (livestock production through various extension packages), nonfarm income restoration strategies (such as small-scale trade, business enterprises, employment opportunities in project construction activities), and special assistance measures for vulnerable groups of PAPs (female-headed households, persons with disability, the elderly, and the poorest of the poor). On the other hand, under the community or social development component the implementing agency will undertake various mitigation and compensation measures and development projects including: improving clean water supply and rural access roads, veterinary clinics and livestock feed resources.

### **Institutional Arrangements for the Implementation of RAP**

The major aspects of the institutional framework for the implementation of the RAP are:

- KENHA will finance and be the direct implementer of the RAP, and for this purpose;
  - The main responsible units within KENHA, namely the Environment and Social Interest Unit will ensure the direct and day to day execution of the activities and provide an overall advice and guidance for the implementation of the RAP;
  - The RAP will be implemented in partnership with various relevant governmental, non-governmental, and community organizations. More specifically Village Resettlement Committees (VRCs), Sub County Resettlement Committees (SCRCs) and Grievance Redress Committees (GRCs) will be established.

### **Monitoring, Reviews and Evaluation**

Monitoring, review and evaluation are essential aspects of any development plan, program or project and the same applies to RAP. The main type of monitoring to be adopted for the purpose of the RAP will be internal performance monitoring (IPM). Accordingly the implementing agency and the main units and institutions charged with the implementation of the RAP will undertake continuous and systematic IPM of the RAP.

### **Implementation Budget**

The total Resettlement Action Plan compensation and implementation costs for the three project components are summarized in **Table 7** below. The total budget required to compensate for the loss of crops and trees, land, structures and other properties is estimated as **152,835,446.50**. The cost for implementing the Resettlement Action Plan is considered as a component of the financial requirements of the project, and will be borne by KenHA.

**Table 7. Estimated Compensation Costs**

<b>Estimated Compensation and Resettlement Costs (Ksh)</b>		
<b>MPLRI Project</b>		
<b>Budget Item</b>	<b>Cost Basis</b>	<b>Cost (Ksh)</b>
Income restoration	Responses to occupational and Income questions included in household survey administered to <b>280</b> project- affected households (total population).	80,030,050.00
Property and other assets	Valuations of property and other eligible assets for 280 surveyed households; land excluded from valuations and compensation costs due to replacement by county and/or municipal authorities on basis of equivalent or better land quality, location and status since PAPs are on ROW.	65,235,791.00
<b>Subtotal</b>		<b>145,265,841</b>
Monitoring and evaluation of preliminary RAP formulation and implementation	Estimated 10 percent of total compensation costs	14,526,841.00
<b>Total</b>		<b>159,235,791.00</b>

# CHAPTER ONE

## 1 INTRODUCTION

The Government Kenya has received a credit from the International Development Association (IDA) towards the cost of the South Sudan East African Regional Transport Trade and Development Facilitation Project (SS-EATTDFP). Parts of the credit have been allocated to rehabilitate the Marich Pass-Lodwar 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 Jonglei 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<sup>1</sup> 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<sup>2</sup>, 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 FY 2014-18 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 supports

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<sup>1</sup> Asebe, 2012, South Sudan logistics and trade bottlenecks supported by the World Bank

<sup>2</sup> Africa's Future and the World Bank's Support to It, March 2011

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

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 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 among others. This calls for the development of this Resettlement Action Plan (RAP) before project implementation.

### **1.1 Objective of RAP**

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 indicative information on the Project Affected Persons (PAPs) pre-impact status so as to enable develop an entitlement matrix geared at restoring the livelihoods to the pre-impact status or making their livelihoods better.

### **1.2 Description of the Project**

The Kenya National Highway Authority (KENHA) through EA Regional Transport Trade And Development Facilitation Project (SS-EATTDFP) is in the process of rehabilitating the 164 KM long Marich Pass-Lodwar Road located in West Pokot and Turkana Counties respectively. 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 interchanges, construction of service roads at all major trading centres along the road corridor, construction of a truck lay bay. These activities will lead to involuntary resettlement and land acquisition and thus necessitate the development of a Resettlement Action Plan (RAP).

### **1.3 Project Objectives**

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 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 Project Justification**

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 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.

## CHAPTER TWO

### 2 REVIEW OF POLICY, LEGAL AND INSTITUTIONAL FRAMEWORKS

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 1** below summarizes the relevant legal framework in Kenya applicable to this project in regard to resettlement.

**Table 8 Summary of relevant resettlement legal statutes applicable to 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 a valuers registration board, which has the responsibility of regulating the activities and conduct of registered valuers in accordance with the provision of the act.

## 2.1 The National Land Policy

The National Land Policy (“NLP” or “Policy”)<sup>3</sup> 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.<sup>4</sup> 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.”<sup>5</sup> Under the current Constitution,<sup>6</sup> 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.<sup>7</sup> Similarly, the NLP empowers the National Land Commission to compulsorily acquire land.<sup>8</sup>

According to the NLP, the exercise of compulsory acquisition in the past has been conducted with abuses and irregularities.<sup>9</sup> 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);<sup>10</sup>
- To harmonize the framework for compulsory acquisition to avoid overlapping mandates;<sup>11</sup>
- To establish compulsory acquisition criteria, processes and procedures that are efficient, transparent and accountable;<sup>12</sup>
- To institute legal and administrative mechanisms for the exercise of the power of compulsory acquisition by the State through the National Land Commission;<sup>13</sup> 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.<sup>14</sup>

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<sup>3</sup> *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](http://www.lands.go.ke/index.php?option=com_content&task=view&id=238&Itemid=48), accessed May 25, 2011.

<sup>4</sup> 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.

<sup>5</sup> *Sessional Paper No. 3 of 2009 on National Land Policy*, § 45.

<sup>6</sup> The Constitution of Kenya, 1963, was replaced in 2010.

<sup>7</sup> Land Act, § 6, 2012.

<sup>8</sup> *Sessional Paper No. 3 of 2009 on National Land Policy*. §233(d).

<sup>9</sup> *Id.* at Chapter 3.2.1.1, article. 46.

<sup>10</sup> *Id.* at Chapter 3.2.1.1, article. 47(a).

<sup>11</sup> *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.)

<sup>12</sup> *Sessional Paper No. 3 of 2009 on National Land Policy*, Chapter 3.2.1.1, § 47(c).

<sup>13</sup> *Id.* at Chapter 3.2.1.1, p. 47(d).

## 2.2 The Constitution of Kenya

The Constitution of Kenya, 2010,<sup>15</sup> protects the sanctity of private property rights and states that no property can be compulsorily acquired by the Government except in accordance with law.<sup>16</sup> 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.<sup>17</sup>*

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.<sup>18</sup> 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 faith” of land acquired by the state who do not hold title for such land.<sup>19</sup> 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.<sup>20</sup>

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

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<sup>14</sup> *Id.* at Chapter 3.2.1.1, §47(e).

<sup>15</sup> 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](http://www.kenyalaw.org/klr/fileadmin/pdfdownloads/Constitution/Constitution_of_Kenya2010.pdf), accessed May 25, 2011.

<sup>16</sup> Constitution of Kenya, art. 40.

<sup>17</sup> *Id.*

<sup>18</sup> The Land Act, 2012 The Government of Kenya, Section 8.

<sup>19</sup> Constitution of Kenya. *Id.* at art. 40(5).

<sup>20</sup> Constitution of Kenya. *Id.* at art. 40(3).

in accordance with security of land rights, sound conservation and protection of ecologically sensitive areas.<sup>21</sup> These principles must be implemented through a national land policy reviewed regularly by the national government and through legislation.<sup>22</sup>

## 2.3 Land Tenure System In Kenya

Land tenure in Kenya is classified as public, community or private.<sup>23</sup> Public land consists of government forests (other than those “lawfully held, managed or used by specific communities as community forest, grazing areas or shrines”<sup>24</sup>), government game reserves, water catchment areas, national parks, government animal sanctuaries and specially protected areas.<sup>25</sup> The National Land Commission will manage public land.<sup>26</sup> 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.”<sup>27</sup> 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).

### 2.3.1 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 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: 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.

### 2.3.2 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. Land individualization was demanded by the colonial settlers who required legal guarantee for

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<sup>21</sup> *Id.* at art. 60.

<sup>22</sup> *Id.* at art. 60(2).

<sup>23</sup> *Id.* at art. 61.

<sup>24</sup> *Id.* at art. 63(d)(i).

<sup>25</sup> *Id.* at art. 62(g).

<sup>26</sup> *Id.* at arts. 62(3), 67(2)s (a).

<sup>27</sup> *Id.* at art. 63(d)(i) and (ii).



the private ownership of land without which they were reluctant to invest.

### 2.3.3 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.

### 2.3.4 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<sup>28</sup>.*

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.

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<sup>28</sup> National Land Commission Act, 2012, Section II, article 5(1)

### **2.3.5 Public Resources on Public Land**

Notwithstanding the foregoing, 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.

## **2.4 Land Act, 2012**

The land act<sup>29</sup> ("LA") is the Kenya's framework legislation regulating compulsory acquisition of land (i.e. land, houses, easements etc.). The LA was adopted on 2<sup>nd</sup> may 2012 and provides for sustainable administration and management of land and land-based resources including compulsory acquisition.

## **2.5 Land Acquisition Process**

### **2.5.1 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 defense, public safety, public order, public morality, public health, urban and 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.

### **2.5.2 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. 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.

### **2.5.3 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

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<sup>29</sup> Land Act, 2012.

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.

#### 2.5.4 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*.<sup>30</sup> It will then serve a copy of the notice to every person interested in the land and deposit the same copy to the Registrar.<sup>31</sup> 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.<sup>32</sup> NLC shall ensure that the provisions are included in her notice.

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.

#### 2.5.5 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.<sup>33</sup>

#### 2.5.6 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.<sup>34</sup> 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.

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<sup>30</sup> The *Kenya Gazette* is the official government journal in Kenya published by the Government Printing Press.

<sup>31</sup> Land Act, 2012, 107

<sup>32</sup> 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=97115264151454584840489&link=](http://www.kenyalaw.org/CaseSearch/case_download.php?go=97115264151454584840489&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=49186237036025529910634](http://www.kenyalaw.org/CaseSearch/view_preview1.php?link=49186237036025529910634), accessed May 25, 2011.

<sup>33</sup> Land Act, 2012 (112).

<sup>34</sup> *Id.* at article 112.

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.

### **2.5.7 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<sup>35</sup> could also be interpreted as market rate. The final award on the 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.

### **2.5.8 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.<sup>36</sup> 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.<sup>37</sup>

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<sup>35</sup> Schedule explaining ‘just compensation’ has not been assessed and released by NLC. The Land Act 2012 say NLC should develop the schedule.

<sup>36</sup> *Id.* at article 112 and article 111.

<sup>37</sup> Schedule 2 governing compensation 2000.

### 2.5.9 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.<sup>38</sup>

### 2.5.10 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.<sup>39</sup> The law could be interpreted that any dispossessed person shall be awarded the market value of the land.<sup>40</sup> 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.<sup>41</sup> 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.<sup>42</sup> 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.

### 2.5.11 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.<sup>43</sup> Section 119 provides a different condition and states that the NLC "as soon as practicable" will pay such compensation.<sup>44</sup> 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.<sup>45</sup>

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<sup>38</sup> Schedule 3 governing compensation for compulsory acquisition

<sup>39</sup> *Land Act*, 117.

<sup>40</sup> *Land Act*, Schedule

<sup>41</sup> *Land Act*, 115

<sup>42</sup> *Land Act*, 115

<sup>43</sup> *Land Act*, This language reflects the language of the Kenya Constitution, 1963.

<sup>44</sup> *Land Act*, 119

<sup>45</sup> *Constitution of Kenya*, article 162

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.

#### **2.5.12 Transfer of Possession and Ownership to the State**

Once first offer payment has been awarded, the NLC will serve 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.<sup>46</sup>

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.

#### **2.5.13 Opportunity for Appeal**

The Kenya Constitution establishes Environment and Land Court<sup>47</sup>. 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

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<sup>46</sup> *Land Act, 115 and 116*

<sup>47</sup> Land Act 2012, Section 128

endeavor to encourage application of alternative dispute resolution mechanisms, including traditional ones, so long as they are consistent with the 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 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.*<sup>48</sup>

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.<sup>49</sup>

## **2.6 Children And Orphans Provision Of Land Possession**

The Land Act 2012, Part III, section 27<sup>50</sup> 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.

## **2.7 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<sup>51</sup> 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.<sup>52</sup> The Valuers Act does not provide for a description of the valuation procedures and methods. The RAP team has made use of the services of registered valuers who are approved by Valuers Registration Board.

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<sup>48</sup> *Land Acquisition Act.* at article 29(7).

<sup>49</sup> *Land Acquisition Act* at article 43.

<sup>50</sup> "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".

<sup>51</sup> The Valuers Act, Chapter 532, [http://www.kenyalaw.org/kenyalaw/klr\\_app/frames.php](http://www.kenyalaw.org/kenyalaw/klr_app/frames.php), accessed May 25, 2011.

<sup>52</sup> Government of Kenya, Kenya Gazette notice no. 2892, March 18, 2011. Registered and Practicing Valuers.

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

- False or incorrect entry in the register;
- False or misleading statement caused by omission or suppression of a material fact,<sup>53</sup> and
- The acceptance of “any professional valuation work which involves the giving or receiving of discounts or commissions.”<sup>54</sup>

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”<sup>55</sup> and are paid by those who requested the valuation.

## 2.8 Involuntary Resettlement

This document has been prepared in accordance with WB requirements as stated in OP 4.12 “Involuntary Resettlement”. The overall policy approach and concept is guided by the following basic principles for social development:

- People who are physically or economically displaced by the Project should not be worse off after the Project than before the Project, and
- The number of people whose livelihoods are improved as a result of the Project should be maximised.

The World Bank recognizes that involuntary resettlement may cause severe long-term economic, social and environmental damage unless appropriate measures are carefully planned and implemented. The main objective of OP 4.12 is therefore to avoid involuntary resettlement when possible, by exploring all viable options before any action is taken to resettle people. In cases where involuntary resettlement cannot be avoided, the policy aims to minimize and mitigate its adverse social and economic impacts by providing sufficient investment resources to enable affected parties to share in project benefits. The policy promotes the participation of displaced people in resettlement planning and implementation. The policy requires that displaced persons be assisted in their efforts to improve or at least restore their incomes and standards of living to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher. More specifically, OP 4.12 requires that the following measures be taken in the event of involuntary resettlement:

- A Resettlement Action Plan (RAP) should be prepared;
- Prompt and effective compensation at full replacement cost should be provided for losses of assets attributable directly to the project;
- Affected people (including residents of “host communities”) should be consulted and fully informed of their rights under the resettlement process;

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<sup>53</sup> The Valuers Act, § 24 and Legal Notice no. 32.

<sup>54</sup> *Land Act 2012, article 128.*

<sup>55</sup> *Legal Notice 32.*



- Affected people (including residents of “host communities”) should be allowed to express their preferences regarding housing, infrastructure and services and agricultural land provided as compensation;
- Physically displaced people should be provided with assistance such as a moving allowance during the relocation process;
- Economically displaced people (including residents of “host communities”) should be provided with development assistance in addition to compensation measures, such as credit facilities, training and job opportunities;
- Vulnerable persons among the displaced people (such as the handicapped, the elderly, women, widows, children, members of disadvantaged minority groups, etc.) should be provided with specific social assistance;
- Ensuring that the relocation of affected people (and subsequent start-up of project construction) does not occur until all necessary measures for compensation and resettlement are fully in place.
- In terms of eligibility to resettlement benefits, OP 4.12 makes a distinction between three categories of Project Affected People (PAP):
- Those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country);
- 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 A, para. 7(f)); and
- Those who have no recognizable legal right or claim to the land they are occupying.

According to OP 4.12, persons covered under para. (a) and (b) are provided compensation for the land they lose, and other assistance. Persons covered under para. (c) are provided resettlement assistance in lieu of compensation for the land they occupy, and other assistance, as necessary, to achieve the objectives set out in the policy, if they occupy the project area prior to the cut-off date. OP 4.12 also mentions that where affected peoples’ livelihoods are land based, land for land solutions should always be preferred to cash compensation.

## **2.9 Indigenous People**

OP 4.10 is deemed applicable in the context of the Project. This is based on findings from social surveys in the context of the Social Assessment (SA), which found presence of indigenous people in the proposed project as defined in OP4.10. These are primarily the people of West Pokot who are categorized by the GOK as vulnerable and marginalized.

## **2.10 Institutional Context**

Responsibility for ensuring that all aspects of resettlement and compensation planning and implementation are taken into consideration falls to project proponents or project implementation bodies. The main institutions involved in land management, compensation and resettlement are briefly described below:

1. The Ministry of Lands:
2. National Land Commission (NLC):
3. County Governments of West Pokot and Turkana

## 2.11 Comparison of Kenya Land Laws & World Bank/Gap Analysis

**Table 2** 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. In general, where there is a difference between Kenyan law and OP 4.12, the latter shall prevail.

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

Table 9 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
<b>GENERAL REQUIREMENTS</b>			
<p>World Bank OP4.12 has overall policy objectives, requiring that:</p> <ol style="list-style-type: none"> <li>1. Involuntary resettlement should be avoided wherever possible, or minimized, exploring all alternatives.</li> <li>2. Resettlement programs should be sustainable, include meaningful consultation with affected parties, and provide benefits to the affected parties.</li> <li>3. Displaced persons should be assisted in improving livelihoods etc., or at least restoring them to previous levels.</li> </ol>	<ol style="list-style-type: none"> <li>1. According to Kenyan Legislation, involuntary resettlement may occur as a result of projects implemented in public interest.</li> <li>2. The Land Act, 2012 Act outlines procedures for sensitizing the affected population to the project and for consultation on implications and grievance procedures.</li> <li>3. The Land Act 2012 guarantees the right to fair and just compensation in case of relocation.</li> </ol>	<ol style="list-style-type: none"> <li>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.</li> <li>2. Same as the World Bank</li> <li>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 does not talk about improving livelihood or restoring them to pre-project status.</li> </ol>	<ol style="list-style-type: none"> <li>1. For RAP, ensure that resettlement issues are considered at the design stage of the project in order to avoid/ minimize resettlement.</li> </ol> <p>Implement World Bank OP 4.12 policy - displaced should be assisted in improving their livelihood to pre-project status.</p>
<b>OP 4.12</b>	<b>Kenyan Legislation</b>	<b>Comparison</b>	<b>Recommendation to Address Gap</b>
<b>PROCESS REQUIREMENTS</b>			

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
<p><b>Consultation:</b> Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs</p>	<p>The Land Act outlines procedures for consultation with affected population by the NLC and grievance management procedures.</p>	<p>Same as World Bank</p>	<p>Implement consultation procedures as outlined in both Kenyan legislation and World Bank.</p>
<p><b>Grievance:</b> For physical resettlement, appropriate and accessible grievance mechanism will be established.</p>	<p>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</p>	<p>Kenyan legislation meets OP4.12 requirements.</p>	<p>N/A</p>
<p><b>Eligibility Criteria</b>  <i>Defined as:</i>            (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)); and            (c) those who have no recognizable legal right or claim to the land they are occupying  <i>To determine eligibility:</i>            Carry out resettlement census. Cut off date for eligibility is the day when the census begins.</p>	<p>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</p> <p>Land Act 2012 provides for census through NLC inspection and valuation process</p>	<p>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.</p> <p>Same as World Bank</p>	<p>Ensure ALL users (including illegal squatters, laborers, rights of access) of affected lands are included in the census survey or are paid</p> <p>Implement cut-off procedures as outlined in the RPF and Kenyan Law</p>

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
<p><b>Measures:</b> 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.</p> <p>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 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.</p> <p>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</p>	<p>Legislation provides for land for land compensation but the Land Act 2012 does not state whether preference should be granted to land to land compensation. Land Act 2012 appears to prefer mode of compensation by the Government to the affected population.</p> <p>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 schedule defining just compensation have not been put in place.</p> <p>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’</p> <p>The Act does not outrightly stipulate assistance for relocation but we can interpret that relocation cost will be included in just compensation.</p>	<p>Land for Land provided for in the Land Act based on agreement by the PAP.</p> <p>Cash based compensation seems to be the preferred mode of awarding compensation to the affected population by Government of Kenya</p> <p>‘Just compensation’ as stipulated in the Land Act not yet specifically defined.</p> <p>OP 4.12 provides related land transaction fees. Land Act not clear on this.</p> <p>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</p>	<p>Ensure that all alternative options are considered before providing cash compensation Use World Bank OP4.12 procedures in determining form of compensation</p> <p>Implement prompt and effective compensation at full replacement cost for the losses of the assets.</p> <p>Implement World Bank policy.</p> <p>Ensure that ALL resettlement options are agreed on with PAPs and put in place BEFORE displacement of affected persons.</p>

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
<p><b>Valuation:</b> With regard to land and structures, “replacement cost” is defined as follows:</p> <p>For agricultural land, it is the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the 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.</p> <p>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.</p>	<p>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.</p> <p>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.</p> <p>The Land Act 2012 stipulates just compensation.</p>	<p>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.</p> <p>Interpretation of just compensation not clear</p> <p>Interpretation of just compensation not clear.</p>	<p>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.</p> <p>Apply World Bank OP4.12 on valuation and compensation measures.</p> <p>Apply World Bank OP4.12 on valuation and compensation procedures.</p>
<p><b>Monitor</b> Adequate monitoring and evaluation of activities to be undertaken.</p>	<p>According to Land Act can be undertaken County Land Boards.</p>	<p>Both Kenyan Law and World Bank policy advocates for Monitoring and Evaluation</p>	<p>Implement as prescribed in the World Bank OP4.12 and Kenyan Law.</p>

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

**Table 10. 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
<b>Land Owners</b>	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
<b>Land Tenants</b>	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.
<b>Land Users</b>	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.
<b>Owners of Temporary Buildings/Structures on the road reserve (illegal traders)</b>	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.
<b>Owners of Permanent buildings</b>	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.
<b>Perennial Crops</b>	Compensation for the loss of crops	Full replacement cost for the loss of crops valued at market price Relocation assistance and livelihood restoration program.

# CHAPTER THREE

## 3 DESCRIPTION OF THE PROJECT AREA

The impact of a given development project is largely the outcome of the interaction between the nature and scope of the project itself on the one hand, and the physical environmental and socio-economic characteristics of the project area on the other. Therefore, a full understanding the various characteristics of the project areas is important for the designing of a sound RAP.

This sub-section provides a general overview of the project areas. The description mainly focuses on those aspects which are deemed to be especially relevant for the RAP (namely demographic and socio-economic conditions and characteristics), including:

- Location and Administrative Set-Up
- Demographic and Socio-Cultural Characteristics
- Economic Conditions and Livelihood Activities
- Access to Public Services and Infrastructure

The following points must be taken into account in understanding the scope and relevance of the description of the project area presented in this section:

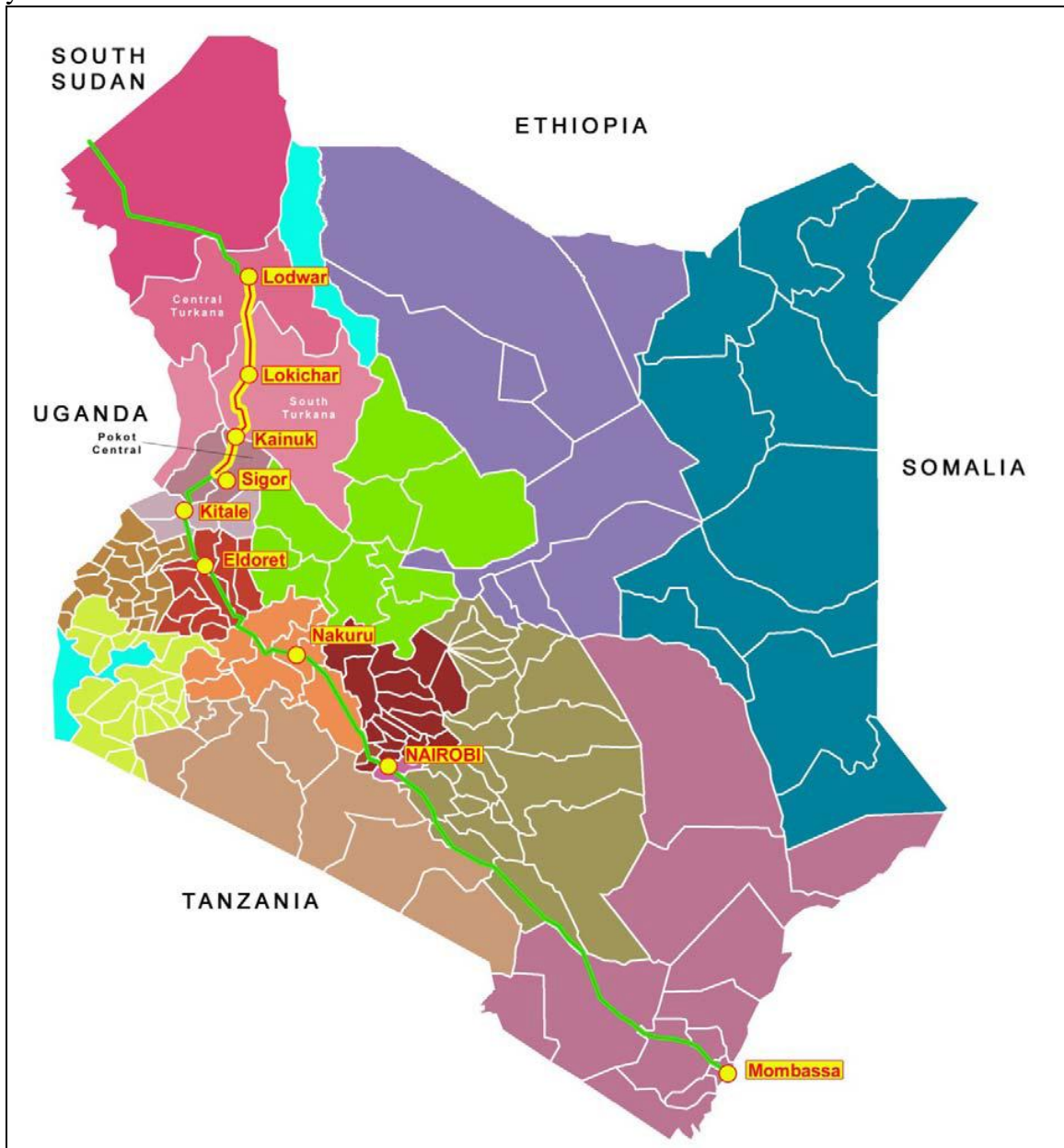
- It is a general overview (based on secondary sources) in the sense that it deals with the project area as a whole and does not consist of a detailed description of each and every locality in the project area. As a result, most of the data and information referred to are aggregate in nature and since the project covers a relatively large area, we naturally expect significant variations to exist between specific localities within the project area;
- The description of the project area presented in this section should be distinguished from the description of the characteristics of PAPs derived from the findings and analysis of primary data and information collected through field work and the associated census and socio-economic survey conducted as direct inputs for the preparation of the RAP.

### 3.1 Location and Administrative Set-Up

The MPLRI Project originates in Marich Pass, a village in Orwa sub location, Sekerr location, in the Pokot Central portion of West Pokot County. One of four sub locations in Sekerr location, the road passes through Orwa sub location toward Kainuk, the latter in Turkana South District. From Kainuk, the road project moves more or less north through Kalemng'orok, Lokichar, Kasuroi, Lochang'ikamatak and Kimabur, the latter five settlements all within Turkana South. After passing through Kimabur, the project road moves into Turkana Central, after which it proceeds through Loturerei on to Lodwar, the project road terminus. **Figure 2** below locates the project road in the context of the Northern Corridor Transportation Scheme. The MPLRI Project is highlighted in bold



yellow.



**Figure 2 Map of Northern Corridor road transport link between Mombasa to South Sudan (project road in bold yellow)**

In addition, the illustrations below provide a closer view of the road network in each county. For purposes of orientation on the West Pokot County road network map, the MPLRI Project begins at a point near the junction of the Sigor Road, the B4, with the project road, the A1. The project road leaves West Pokot County shortly before reaching Kainuk (at light violet county boundary), a distance of about 35 kms.

Although the above figure illustrates the MPLRIP as it travels beyond Lockichar, Figure 3 on the following page shows the project road in its entirety in Turkana County. From

Kainuk on the border with West Pokot County, the MPLRI Project moves into and through Turkana South to Lokichar, for a distance of 85 kms. After traversing Lokichar, the road passes through Turkana Central Sub County to Lodwar, the largest town in Turkana County and the envisioned administrative headquarters for the county. The project road distance from Lokichar to Lodwar is 87 kms.

The current road between Marich Pass and Lodwar is in exceedingly poor condition. On some stretches, all bituminous surfacing has been completely destroyed; these portions have been overlain with gravel to improve drivability. The road is kept passable with occasional grading, but, for the most part, the road has deteriorated to the point that it is unsafe, even at very slow speeds. Large trucks experience extreme difficulty in negotiating temporary detours.

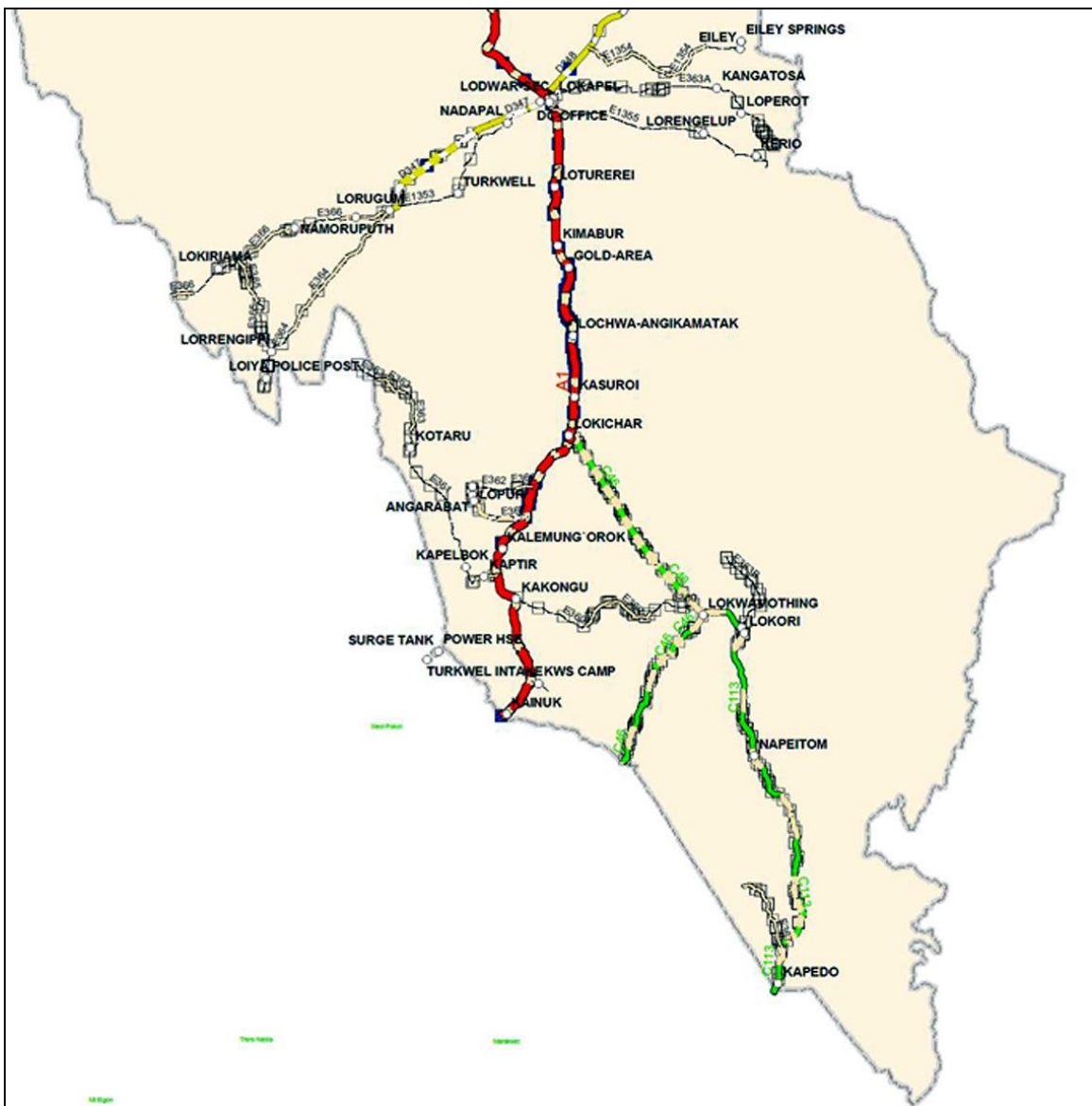


Figure 3 Road network in Turkana County

## **3.2 Affected Areas**

Although modernization is rapidly changing the pastoralist traditions of the two major ethnic groups—the Pokot and the Turkana—who live in the project area, the near majority (45.2 percent) of project-affected people (PAP) continue to maintain sizeable numbers of livestock, mostly cattle. To maintain their livestock, the herd owners must frequently move the stock to new grazing sites, a task made more difficult by the prevailing climate—high temperatures and low rainfall, weather patterns that do not encourage rapid grass growth or recovery. Indeed, the persistent droughts experienced in West Pokot and Turkana Counties exacerbate the animal related hostilities between the Pokot and Turkana. Drought makes finding sufficient livestock grazing and watering points more difficult to meet the pastoralists’ needs.

To compound the problem of finding adequate forage and water, the two groups have a long history of cattle rustling. The raids have become more violent with both the Pokot and Turkana using small and increasingly more deadly arms to either rustle or recover stolen cattle. Within the project-affected area, the areas with the highest frequency of raids are Kainuk, Kaputir, Kaakong, and Nakwamoru in Kainuk Division and Kalemng’orok and Lokapel in Katilu Division, all located within Turkana South District.

In fact, the Kainuk forest on MPLRI Road between Orwa Trading Centre (Pokot Central District) and Kainuk (Turkana South) is heavily tread, offering attackers from both communities with cover for safe escapes.

The following subsections profile project-affected portions of the three districts in question, highlighting each district’s distinct administrative structure, demographics, settlement patterns, economic activities, climate, food security, education, health, water resources and tourism. As well, Non-Governmental Organizations (NGO) and Community Based Organizations (CBO) in each district are reviewed briefly to emphasize their vital role in aiding the resettlement of PAPs adversely affected by the MPLRIP.

## **3.3 Pokot Central Sub County**

### **3.3.1 Administrative Structure**

Marich Pass, the beginning of the MPLRI Project, is located in Sigor division, Sekerr location, the latter subdivided into four sub locations—Chepkondou, Mbara, Orwa and Sostin. The road project is located entirely in Orwa sub location.

### **3.3.2 Demographic and Cultural Characteristics**

The Pokots, who are the dominant ethnic group in the southern section of the study area northward to the Kainuk forest, are Southern Nilotics who belong to the Kalenjin group. The population in West Pokot County was almost 513,000 (2009 census); the county’s male to female ratio is dominated by men until older age (2009 census). At age interval

1-10 years, males numbered 95,845 and females, 93,068; at age interval 20-30 years, females (41,993) outnumbered males (35,772).

By tradition, the more sedentary, agricultural Pokot occupied the Sekerr hills, along with the Cherangani hills, where they customarily raised rainfed and irrigated sorghum and finger millet, crops that have now been expanded to include maize, beans and cassava. In addition to cultivating, these Pokot kept small herds of livestock. This Pokot group is known as pipöpagh (people of the grains) or Hill Pokot.

The semi-nomadic, pastoral Pokot live in the western and eastern plains, the eastern plains part of the project-study area. These Pokots herd cattle, sheep, goats, and, in smaller numbers, donkeys and camels. Persistent movement in search of pasture, water and saltlicks characterizes their lives.

The herders travel long distances with their livestock, moving between dry and wet season grazing areas. This Pokot group is known as the pipötich (people of the cattle) or Plains Pokot. Limited grazing and watering resources trigger cattle raids—many of which constitute the reasons for conflict among the Pokot. Like their neighbors to the north, the Turkana—pursue raids on the cattle of bordering tribes for a variety of reasons. The net result is that this region of Kenya is deemed a high insecurity area.

### **3.3.3 Settlement Patterns**

The Pokot population in Orwa sub location, where Marich Pass and Orwa Trading Centre are located, is divided between the Hill Pokots living in the rainy highlands and the Plains Pokots living in the dry plains.

The two groups normally intermingle because trading is concentrated in Marich Pass and Orwa Trading Centre. Marich Pass and Orwa Trading Centre are developed with residential structures used primarily for commercial purposes. The most common businesses include retail shops for sale of food items such as sugar and tea along with imported cereals and fruits; eating establishments; and, locally produced charcoal. Buildings, structures and other properties located within the ROW for the MPLRI project are found, for the most part, in these two trading centres, which are situated about 2 km apart. After leaving the Moruny River near both centres, settlements are virtually non-existent until the Kainuk forest is reached.

### **3.3.4 Economic Activities**

For the most part, the Pokots are semi-nomadic, pastoralists (pipötich), keeping sizeable herds of cows, sheep, goats and donkeys, but they also cultivate (pipötich) growing subsistence crops—mostly maize—along riverbanks and hill slopes. Nevertheless, wealth among both groups is measured by the number of cows one owns. Used for barter and, more importantly, bride price, cattle exchanges are the primary manner by which wealth and resources change hands in Pokot society.

Gold mining also provides income for the Pokot; they dig for gold along riversides and

on the lower slopes of the area's hills. After collection, the gold is sold to brokers. Pokot youth operate boda boda (for hire motorbike transport) businesses. These businesses are popular or income earning by the youth throughout the project area.

### **3.3.5 Food Security**

Along with the subsistence maize they raise, the Pokot depend upon their cattle for their protein and dairy needs (milk, butter and cheese). The Pokots' diet consists largely of milk and porridge mixed with cow blood. But, like their neighbors, the Turkana, to the north, the harsh climate limits their ability to produce enough food to feed themselves. Consequently, they receive food relief from the government and World Food Programme (WFP), when and where necessary.

### **3.3.6 Education**

There are numerous nursery schools, e.g., Marich Pass Early Childhood Development (ECD), Orwa ECD, Roe ECD and the Junior Redeemed Church of East Africa (RCEA) Academy. Primary schools include Marich Primary and Orwa Primary. As well, there is a Teacher Advisory Centre Tutors programme meant to provide teachers with in school development guidance. There are no secondary or tertiary schools in the area. Girl children marry at early ages, often before they have finished primary education. Their marriages are a source of wealth because bride price is paid the girls' parents.

### **3.3.7 Health**

The Orwa Sub location most common diseases are malaria, cholera, typhoid and diarrhea. The only accessible health facility in the area is RCEA Marich dispensary, where medicines are in short supply.

### **3.3.8 Water Resources**

Communities in and around Marich Pass depend on water from the Rivers Turkwell and Moruny. Interior communities are not so fortunate, however. They travel long distances to access water for themselves and their livestock.

### **3.3.9 Tourism**

In addition to the renowned Marich Pass Field Studies Centre, which attracts national and international students and tourists, Pokot Central District offers unique vegetation, diverse wildlife and dramatic landscapes, in particular, the mountains near Marich Pass.

### **3.3.10 Nongovernmental Organizations**

Nongovernmental Organizations (NGO) in Orwa sub location include:

- WFP who provides and distributes relief food;
- Agency for Technical Cooperation and Development International, or ACTED, whose multiple missions are to manage conflict and build peace between the Pokot and Turkana as well as maintain food security through food for work, reduce animal populations through emergency slaughter and intervene in animal healthcare;
- Merlin International who provide medical assistance with medicines and health

- personnel;
- World Vision International (WVI) who deliver education and water/sanitation services (WATSAN); and,
- The Red Cross who respond to emergencies such as drought.

### **3.4 Turkana South Sub County**

The second planning/construction section-Kainuk to Lokichar in the Marich Pass Lodwar Road project is 85 kms in length.

#### **3.4.1 Administrative Structure**

Near Kainuk, the MPLRI Project moves into Turkana South District that is composed of four divisions, namely Kainuk, Katilu, Lokichar and Loreng’elup. The project road passes through all but the last of the four aforementioned divisions. Lokichar serves as the current district’s headquarters as well as the location of numerous district offices for central government ministries and agencies.

#### **3.4.2 Demographic and Cultural Characteristics**

The total 2009 population of Turkana South County was 135,913-72,591 males and 63,322 females (2009 census). Of that population total, the overwhelming majority is Turkana (98 percent) while the remainder (2 percent) is made up of other ethnicities and/or nationalities. One prominent group in this 2 percent is Kenyan Somalis who operate local businesses.

The Turkana, the third largest Nilotic ethnic group in Kenya, is the principal tribe in the study area. They, like the Pokot to the south, are divided into two discrete groups: the forest people (nimonia) and the people of the plains (nocuro). These two groups are subdivided into about twenty clans with each clan linked to a unique livestock brand, facilitating the recognition of clan relationships. Each clan also occupies a defined territory. Although individual rights to forage do not exist, the clan elders must give permission to move into another’s grazing territory. Each clan defends its territory, and during periods of stress such as drought, the elders may deny non- clan access to the grazing area or impose a toll in livestock.

The Turkana have a livestock raiding culture. Historically and currently, raiding with the subsequent counter raids of traditional enemies provided the Turkana with:

- Expanding grazing lands;
- Gaining access to new water sources;
- Restocking herds;
- Improving social status by acquiring livestock from defeated enemies;
- Acquiring bride price; and
- Reducing hunger and poverty.

#### **3.4.3 Settlement Patterns**

By tradition, the Turkana people are semi-nomadic pastoralists whose settlement patterns

depend on availability of pasture for their animals and their land requirements are extensive. However, these patterns are gradually changing due to their exposure to other lifestyles. The Turkana have been influenced by the inescapable benefits of urbanisation. Their settlements are concentrated around trading centers such as Kainuk, Kaakong, Kalemng'orok, Katilu and Lokichar where they can, at minimum, find work. Moreover, some of these centres have become densely populated because of increased government led security.

#### **3.4.4 Economic Activities**

According to government estimates, the area's poverty level stands at 73 percent, but local informants—primarily local NGOs—estimate the rate at 94 percent. Because the Turkana pastoralist community is semi nomadic, they are not stationary, which partially accounts for high poverty rates.

Even so, they pursue irrigated farming, particularly around Kainuk and Katilu where food crops such as maize, sorghum, English /sweet potatoes, cow pea and green gram are raised. Horticultural crops—tomatoes, kale (sukuma wiki), spinach, pumpkins, bananas and other local vegetables are also grown.

Other income sources include charcoal trade, bars and guesthouses. Gold mining provides another source of income in the villages of Lochaang'ikamataak and Lochoromoit. Kenyan Somalis, in particular, have introduced new sources of income such as retail shops, welding, restaurants, woodwork, motor vehicle repair and petrol stations. As a consequence of these activities, the local Turkana have diversified their income generating behaviors. Recently discovered petroleum reserves in the Kainuk and Lokichars area as well as the Kainuk rural electrification project, funded jointly with GOK and Kenya Electricity Generating Company Ltd., are expected to boost local and national incomes.

#### **3.4.5 Food Security**

In general, household food resources are scarce because of the reoccurring droughts, livestock diseases and insufficient marketing information. As a result, the community must depend on relief food from the government and WFP.

#### **3.4.6 Education**

Within Turkana South Sub County, there are 50 primary schools (49 public and 1 private). Although no recent official figures were obtainable, more boys than girls attend school, largely a consequence of the early marriage of young girls—some as young as 13 years—to wealthy older men. The matter of bride price is an important factor in the early marriage of young girls.

#### **3.4.7 Health**

GOK operates one health centre and six dispensaries; the Catholic mission runs a second health centre. Numerous health complications are common to Turkana South Sub County; the most common are malaria, respiratory tract infections, diarrhea, pneumonia, ear and eye infections, skin infections, intestinal worms, urinary tract infections and

Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome (HIV/AIDS).

In common with other parts of Kenya, HIV/AIDS has become a serious health problem in the district. HIV/AIDS transmission is attributed to long distance truck drivers, migrant workers and commercial sex workers. Sexually active age groups are especially at risk because of high poverty levels and low literacy rates. HIV/AIDS Voluntary Counseling and Testing Centres (VCT) have been provided by Merlin Mobile VCT, along with VCT at Nakwamoru, Lokori, Lokichar and Katilu health centres. Prevention of Mother to Child Transmission services are provided at Lokichar, Nakwamoru and Katilu health centers and at Kainuk dispensary.

### 3.4.8 Water Resources

There are no reported subsurface dams or natural springs in the project area. In terms of surface water resources, the River Turkwell is the largest river in Turkana South Sub County. Although it is perennial, the river's water level during the dry season can be very low. In addition, Lokichar is served by Achukule water providers.

### 3.4.9 Tourism

After the A1—the project road—is improved, Turkana South Game Reserve is likely to become a tourist attraction because of its diverse wildlife populations, namely lions, cheetahs, zebras, hyenas, elephants, gazelles and dikdiks, the latter represented by a small population of Swayne's dikdik (*Madoqua saltiana swaynei*) at the northwestern most limit of its range. The Nasolot Natural Reserve on the border between Turkana South and Pokot Central Sub County also offers tourism potential.

### Non-Governmental and Community Based Organizations

The active NGOs in the Turkana South Sub County include

- WFP which distribute food;
- WVI which enhance food security, education and WATSAN;
- Vétérinaires Sans Frontières Belgium (VSF Belgium) who undertake community based livestock development;
- Catholic Relief Services (CRS) which offer education; and, OXFAM Great Britain (OXFAMGB) which focus on capacity building; helping develop local community based organizations to become involved in peace building; emergency/disaster preparedness; and, advocacy for policies to benefit the poor. Likewise, active CBOs in the project area are:
- KIWEDO Turkana whose main objective is to build capacity among the local community members in areas of health, security, education and food security and
- Alemun Pastoralists Empowerment Initiative (APEI) that seeks to build capacity of the local pastoralist communities in sustainable livelihoods projects with programmes to increase incomes of its members engaged in poultry production and vegetable gardening.

## 3.5 Turkana Central Sub County

The final section for planning of design and reconstruction of the MPLRIP is Lokichar to



Lodwar, a distance of 87 kms. After passing through Lokichar, the project road moves into Turkana Central Sub County to its terminus in Lodwar.

### **3.6 Administrative Structure**

Turkana Central Sub County includes three divisions—Central, Kerio and Kalokol divisions, all headed by a district commissioner. Kerio division is the largest unit and Central, the smallest.

### **3.7 Demographic and Cultural Characteristics**

The majority of Turkana Central Sub County's population is Turkana; however, traders and NGO staff come from across Kenya, making the Sub County quite cosmopolitan. When compared to other settlements in Turkana County, Lodwar Town is the most multicultural and multiethnic. Kenyan Somalis, Kikuyus, Merus, Kambas, Luos and Luhya communities make up this diversity in the main.

Livestock keepers by tradition, the Turkana in Turkana Central Sub County keep cattle, goats, sheep, poultry (primarily chickens), camels and donkeys. Camel meat and milk are widely consumed in the district, where both are sold in local butcheries and shops. Their donkeys are at once consumed and utilised for transport. Cattle are reserved for bride price and wealth status.

### **3.8 Settlement Patterns**

In addition to keeping livestock, a number of Turkana cultivates. Farming is conducted primarily in the Kerio area on farms that average 2 acres in size. Sorghum, millet, maize and vegetables, e.g., kale (sukuma wiki) is raised for household subsistence. There are no cash crops in the district.

Because of recent and rapid urbanization, the greater part of Turkana Central Sub County's residents is new arrivals who have either bought or rented land from the local community. In these cases, the owners of the land have been issued with allotment letters from county council authorities. These allotments are the consequence of the prevailing land tenure system in the district and the county Trust Land. There are no title deeds to land because the community owns it; hence, no one is without land.

### **3.9 Economic Activities**

Lodwar's economy is quite robust, sufficiently so to support several banks such as Kenya Commercial Bank, Equity Bank, Kenya Post Office Savings Bank and Kenya Women Finance Trust as well as numerous MPESA outlets that serve as money transfer agents. Other abundant businesses in the town are hotels and lodging establishments; petrol stations; sales of handicrafts, charcoal, livestock (mainly goats and sheep), fruits and vegetables; bicycle repair; boda boda (for hire motorbike transport); woodworking, particularly making and selling of furniture; and, metal smithing. Businesses in Lodwar, however, are dominated by migrants from other parts of Kenya: Kenyan Somalis, Meru,

Luo, Luhyias and Kikuyu.

### **3.10 Food Security**

Food, in general, is scarce because of recurrent drought, livestock diseases and inadequate marketing information when there might be household surpluses of crops or livestock to sell. Consequently, the community must rely on food relief from the government and WFP.

### **3.11 Education**

Lodwar was the only settlement of any consequence for many years. Consequently, the education sector is better developed in Turkana Central than in the other districts of Turkana County. Numerous nursery, primary and secondary schools have been established—some by the Catholic Diocese of Lodwar and some by GOK. Kenya Aid and Relief Effort Academy, or KARE Academy, is one of several private schools. Lodwar Youth Polytechnic attracts youth who cannot afford or are not qualified to join secondary schools. Despite Turkana Central Sub County’s pervasive poverty, Lodwar hosts various tertiary education campuses that facilitate access to higher education.

In common with other parts of Turkana County, more boys than girls attend primary school in Turkana Central Sub County. Dropout rates for girls are much higher than for boys. This condition is the consequence of young girls’ early marriage—some as young as 13 years—to wealthy older men.

### **3.12 Health**

Lodwar District Hospital is the largest hospital in Turkana County; it serves as a county referral hospital. The main challenge faced by the hospital is a lack of personnel: health personnel posted to the hospital opt for employment with better-funded International Non-Governmental Organizations (INGO).

In order of prevalence, the most common diseases are malaria, respiratory tract infections, stomach disorders, diarrhea and flu. Child nutritional status is extremely dire with the highest global acute malnutrition rates in the country. Because childhood nutrition is so inadequate, children are severely undersized for their age group. Immunization rates are low for several important reasons. Of note, however, the demand for contraceptives has increased as more district residents seek healthcare services where they learn about the availability of pregnancy preventions. Additionally, the advocacy campaigns pursued by various NGOs have increased awareness of family planning.

### **3.13 Water Resources**

Surface water—mostly collected from rivers, hand-dug shallow wells, boreholes and piped water constitute the principal sources of domestic and livestock water for residents in Turkana Central Sub County. Lodwar’s schools are provided water from INGO dug shallow wells. Lodwar Water and Sanitation Company (LOWASCO) distribute piped water within Lodwar municipality. Expansion of the LOWASCO system is being

planned to underpin one of the country's economic pillars—that is to say, tourism—in Vision 2030, Kenya's strategic planning blueprint for the nation's development during the period 2008 to 2030. Lodwar, because of its proximity to Lake Turkana, is deemed to be an important tourist destination; therefore, ample water and reliable sanitation must be available to serve the town as its tourism potential develops.

### **3.14 Nongovernmental and Community Based Organisations**

Many NGOs have located in Turkana Central Sub County; they follow. The district commissioner reports, however, that many NGO led projects are unfortunately abandoned for various reasons including the harshness of the climate.

- United Nations Children's Fund (UNICEF) which is concerned with the health and wellbeing of children;
- Food and Agriculture Organization (FAO) which enhances food security by providing agricultural training;
- WFP which distributes food;
- WVI which provides food security, education and WATSAN;
- VSF Belgium which is tasked with community based livestock development;
- CRS which supports education;
- International Rescue Committee (IRC) which provides medical services;
- USAID through the Aphiaplus programme which supports medical services;
- Merlin International which undertakes medical support; and
- OXFAM/GB who focus on several objectives: capacity building, developing local CBOs to work in peace building, responding to emergencies, disaster preparedness and advocacy for policies that benefit the poor.
- KIWEDO Turkana whose main objective is capacity building of local community members in health, security, education and food security and
- APEI, funded by USAID, who seek to build community capacity with programmes to increase pastoralist livelihoods through poultry production and vegetable gardening.

### **3.15 Project Activities Necessitating Resettlement**

The Marich Pass Lodwar Road is an existing road, one that is part of the A1. However, its 197 kms have deteriorated badly over the years since its upgrading to bitumen standards between 1980 and 1984. The road was initially built in the mid 1970s as a gravel road. Today's Marich Pass Lodwar Road is made up of a natural gravel pavement, some 20-30cms thick, topped with a double Otta seal. The roadway, where still intact, is 5.5 m wide with gravel shoulders ranging between 25cms and 50cms in width. Relief goods and services for South Sudan were delivered by heavy trucks from the port of Mombasa using the Marich Pass Lodwar Road in part.

The road was not designed for heavy loads; to compound the designed load limitations, the road was not maintained. Irregular and infrequent maintenance only served to accelerate the road's deterioration. Sections of the project road have disintegrated, leading to the risk of complete road failure. In some sections, the bitumen surface is

simply gone, and those sections have been overlain with gravel to improve driveability. Traffic along the road travels very slowly; yet, accidents are not infrequent. Large trucks lumber through temporary detours. Nonetheless, the road is kept open with occasional grading.

Aside from the clear and present need to rebuild this portion of the A1, the Marich Pass-Lodwar Road will be widened to meet international design standards. The ROW will also be widened. In addition, limited realignments are planned to improve travel speeds. These activities—road widening, ROW expansion and restricted realignment will necessitate displacement and relocation of any buildings, structures and other assets currently located in the ROW. In many sections of the MPLRIP, displacements are minimal, but near and within major settlements, i.e., Kainuk, Lochoromoit and Lodwar, the number of displacements is much higher because extensive and intensive encroachments into the ROW have occurred over the years.

## CHAPTER FOUR

### 4 CENSUS AND SOCIOECONOMIC SURVEY

A socio-economic sample survey and census enumeration was conducted in the project area. The cut-off date for the census was **December 31<sup>st</sup> 2014**. The primary objectives of the surveys are, among others, to understand the scale and nature of project impacts on local communities, identify Project Affected Persons (PAPs) and map out their social and economic characteristics, obtain information necessary for the preparation of this Resettlement Action Plan (RAP), establish indicators for the implementation of the RAP, and provide baseline data for monitoring and evaluation of livelihoods and income restoration and other sustainable development components of the RAP. Besides, in order to obtain information needed for entitlement and compensation payments for lost assets, a detailed inventory of all assets affected by the project was undertaken. In this Chapter, findings of the census and socioeconomic sample surveys will be presented.

#### 4.1 Demographic Characteristics

The selected findings for project-affected demographic and socioeconomic indicators discussed in this section of the RAP were derived from data collected through administration of household surveys. These survey questionnaires were administered to all affected units, residential or residential cum commercial. In addition to household surveys, the data to describe the study area were gathered from the following target populations:

- Community consultations (baraza) – **(Reference to Annex 2)**.
- Personal interviews with key stakeholders, comprising representatives of district commissioners, government department heads and civil servants, councilors, chiefs and assistant chiefs, community opinion leaders and representatives from local NGOs and
- Affected households, which were the foremost focus of the Social Impact Assessment (SIA)

Several methodologies were employed to collect the required data, including structured checklists for community consultations; semi-structured checklists to conduct personal interviews; and, systematized questionnaires to survey affected households.

#### 4.2 Enumeration and Census Survey Sites

The socioeconomic team conducted interviews and consultations with the project-affected population in the districts of Pokot Central, Turkana South and Turkana Central. The sites where data were collected and the number of household-survey contacts are summarized below.

**Table 11. Enumeration and Census Survey Sites**

Data Collection Sites and Interview Contacts			
Sub Counties of Pokot Central, Turkana South and Turkana Central			
By Contact Numbers and Percentage of Total Contacts			
Data Collection Site (Settlement)	District	Number	Percentage
Marich Pass	Pokot Central	30	10.7
Kainuk	Turkana South	43	15.4
Kalemng'orok	Turkana South	24	8.6
Lokichar	Turkana South	11	3.9
Kasuroi	Turkana South	23	8.2
Lochaang'ikamatak	Turkana South	19	6.8
Lochoromoit	Turkana South	54	19.6
Kimabur	Turkana South	04	1.1
Loturerei	Turkana Central	21	7.5
Lodwar	Turkana Central	51	18.2
<b>Total</b>		<b>280</b>	<b>100</b>

A total of **280** households were surveyed in the three districts that would be affected by the MPLRI Project. The majority of people to be affected is from Turkana South with a total of 178 affected households. In Turkana Central, a total of 72 households is affected; and, in Pokot Central, a total of 30 households will be affected in Orwa Sub location at Orwa Trading Centre and Marich Pass.

#### 4.2.1 Survey Respondent Attributes

Several respondent attributes within the **280** surveyed households and relevant to the RAP are summarized in the following tables.

**Table 12. Survey Respondent Attributes within Sampled Households (Gender Segmented)**

Survey Respondent Demographic Attributes	
Sampled Households	
(N = 280)	
Respondent Gender	Percentage of N
Male	87.4
Female	12.6

**Table 13. Survey Respondent Attributes within Sampled Households (Gender Combined)**

Gender Combined		
Respondent Age	Percentage of N	Mean Age
≤55 years	83.9	42.4
≥55 years	16.1	

#### 4.2.2 Respondent Demographic Attributes

The majority of household heads (83.9 percent) is under 55 years of age with the remainder (16.1 percent) over 55 years of age. The mean age of the household head is slightly more than 42 years. Therefore, the preponderance of households is headed by a person under 55 years, an age group that falls within the active workforce and below the government's retirement age.

### 4.2.3 Respondent Origin

Of the 280 project-affected household respondents surveyed in the three districts impacted by the road project, only Loturerei in Turkana Central Sub County had no non-ancestral<sup>56</sup> settlers; all surveyed households in Loturerei were ancestral claimants<sup>57</sup> to land. Conversely, Lodwar, also located in Turkana Central Sub County, had the most non-ancestral settlers-65 percent, underscoring the in-migration of outsiders to Lodwar to take advantage of the town’s business opportunities.

**Table 14. Origin of Survey Respondents**

Origin of Survey Respondents (N = 280)		
Settlement	Ancestral Claimant (Percentage)	Non- Ancestral Settler (Percentage)
Marich Pass	55	42.4
Kainuk	69	31
Kalemng’orok	78	22
Lokichar	68	32
Kasuroi	58	42
Lochaang’ikamatak	68	32
Lochoromoit	85	52
Kimabur	68	32
Loturerei	100	
Lodwar	35	65

For the most part, the road project area is populated by the Pokot and Turkana in their respective locations. However, the table above confirms that, among households surveyed for the SIA, migrants from other parts of Kenya have settled in project affected districts, most likely to start and operate businesses. These migrants consist of Kenyan ethnic groups such as Kenyan Somalis, Luos, Luhyas, Kikuyus, Merus, Kalenjins and Kambas—all represented in the business communities of major settlements in the project area, particularly in Lodwar.

### 4.2.4 Surveyed Household Attributes

#### 4.2.4.1 Household Literacy

The literacy rate in the surveyed households is very low. Slightly more than one third (34 percent) of households had finished primary school, but, more disquieting, slightly less than one-third (30 percent) of the members of interviewed households were illiterate—able to read and write. The findings on education level of household members and overall literacy rates are tabulated below.

**Table 15. Education Levels of Surveyed Households**

Members of Surveyed Households
Education Levels

<sup>56</sup> Non-Ancestral claimants are those that settled on the project area from other parts of Kenya and have no historical birth or parental affiliation to the project area.

<sup>57</sup> Ancestral settlers are those household born in the area and whose parents have been in the area since their birth.

(N = 280)		
Level of Education	Number	% of Total Interviews
Illiterate	472	30
Read	54	3
Literate	205	13
Primary	529	34
Intermediate	23	2
Secondary	226	15
Tertiary	48	2
Total	1557	100

#### 4.2.4.2 Household Size

Surveyed household size varies widely—from one to thirty two. Households with only one member occurred more frequently in Turkana South Sub County where two households in this category were surveyed. In contrast, households with the highest number of members occurred in Turkana South Sub County: mean household size ranged from 22.7 to 32.3, usually indicative of polygamous households and subsequent multiple family units.

**Table 16. Size of Surveyed Households**

Table 16					
Size of Surveyed Households					
N = 280					
Settlement	District	Number of	Mean Size of	Minimum Size of	Maximum Size of
Marich Pass	Pokot Central	30	05.5	1	16
Kainuk	Turkana South	43	32.3	1	124
Kalemng'orok	Turkana South	24	07.0	3	12
Lokichar	Turkana South	11	09.1	1	28
Kasuroi	Turkana South	23	17.7	4	175
Lochaang'ikamatak	Turkana South	19	08.3	3	32
Lochoromoit	Turkana South	55	09.1	2	21
Kimabur	Turkana South	03	22.7	8	45
Loturerei	Turkana	21	09.4	5	21
Lodwar	Turkana	51	11.7	3	24
Total		280			

\*Extraordinarily large sized units are normally multiple households headed by one man or membership in self-help groups.

The average household size in the project-affected area is thirteen. As mentioned before, some families are larger because of polygamy.

#### 4.2.4.3 Household Livelihood Activities

Affected households in the project area derive their income by diverse means. In addition to the two principal land based occupations, i.e., pastoralism and farming, several other occupations depend upon natural resources for their livelihoods—charcoal production and sale; gold mining; and, sand quarrying. Along with these five occupations, another sixteen lines of work were reported. Farming, unreliable as it may be in the hot, dry climate of the project area, does yield enough that occasional surpluses can and are sold in limited quantities. Most farmers' production is consumed at the household level.



### Primary Occupations

The highest percentage of the affected Pokot and Turkana communities (42.3 percent) are pastoralists, possessing large herds of cattle, sheep, goats, camels and donkeys. Majority of PAPs pursue occupations other than pastoralism as Table 10 below confirms. Small vending accounts for nearly one-fifth (18.9 percent) of reported occupations. Farming occupies nearly one in ten (9 percent) of the surveyed PAPs. The occupations with the least representation are those entailing booking/ticketing office, charcoal sales, medical doctor and vehicle repair—each only 0.3 percent of the total reported occupations.

**Table 17. Primary Occupations of Surveyed Households**

Table 17		
Primary Occupations		
Surveyed Households		
N = 280*		
Primary Occupation	Reported Occupation Frequency	Total Reported Occupations Percentage (rounded)
Bars	03	00.8
Barbershop	07	02.0
Bicycle repair	07	02.0
Booking/ticketing office	01	00.3
Butchery	15	04.2
Charcoal sale	01	00.3
Farming	32	09.0
Gold mining	07	02.0
Hotel/cafe	15	04.2
Medical doctor	01	00.3
Milling/grinding	06	01.7
Pastoralism	150	42.3
Petrol Station	03	0.85
Rental property	08	02.3
Sand quarrying	03	0.85
Shop/boutique	18	05.1
Small vendor	67	18.9
Tailoring	02	0.56
Vehicle repair	01	00.3
Welding	03	0.85
Woodworking (carpentry)	05	01.4
<b>TOTAL</b>	<b>355</b>	<b>100.0</b>

### 4.2.5 Crop Failures

Small-scale agriculture is practiced throughout the project area at once for household consumption and, when possible, marketing of the surpluses. A persistently hot, dry climate is not suitable for widespread farming. In fact, most of those who cultivate experience crop failure almost every year (91 percent). The dismal statistics for farming outcomes in the project-affected districts follow in **Table 18**. These data were derived from 167 respondents among the surveyed PAPs.

**Table 18. Crop Failure by Period**

<b>Table 18</b>					
<b>Crop Failure, by Period</b>					
<b>Three Project-Affected Districts</b>					
<b>Settlement</b>	<b>Annual Failure, by percentage</b>	<b>Biennial Failure, by percentage</b>	<b>Triennial Failure, by percentage</b>	<b>Quadrennial Failure, by percentage</b>	<b>Other Period of Failure, by percentage</b>
Marich Pass	09.0	05.0	---	---	---
Kainuk	39.0	---	---	---	---
Kalemng'orok	10.0	05.0	02.0	---	01.0
Lokichar	01.0	---	---	---	02.0
Kasuroi	07.0	---	---	---	01.0

#### 4.2.6 Crop Irrigation Methods

Without supplemental water, most subsistence crops farmed in the project area will not survive. As Table 11 confirms, slightly more than 90 percent of farmers experience crop failure annually. Therefore, crops must be irrigated to the greatest extent possible. A variety of irrigation methods are used with the plastic jerry being the preferred method (46 percent). Table 12 lists two other methods of irrigating and the percentage of farmers who use them.

**Table 19. Irrigation Methods by Percentage of Use**

<b>Table 19</b>			
<b>Irrigation Methods</b>			
<b>By Percentage of Use</b>			
<b>Irrigation Method</b>	<b>Plastic Jerry-Can</b>	<b>Generator</b>	<b>Water Canal</b>
Plastic jerry can	46	---	---
Generator	---	36	---
Water canal	---	---	18

#### 4.2.7 Marketing Income

Five different products are marketed that contribute to a household's maintenance: crops, poultry, livestock, charcoal and handicrafts, the latter two produced from natural resources that are locally collected and converted to their final salable state. From the information in Table 13 below, it becomes apparent that all households (100 percent) derive up to 10 percent of their income from handicraft production and marketing. Charcoal production and sales yield more than 50 percent to a majority of households' income when lower and upper intervals are combined. Marketing of poultry-mostly chickens-contributes up to 10 percent of the livelihood of many households (69 percent).

**Table 20. Household Income Sources from Locally marketed Products by Percentage**

<b>Table 20</b>					
<b>Household Income Sources from Locally Marketed Products</b>					
<b>By Percentage</b>					
<b>Household Income</b>	<b>Crops</b>	<b>Poultry</b>	<b>Livestock</b>	<b>Charcoal</b>	<b>Handicrafts</b>
0 to 10 percent	47	69	53	53	100

11 to 30 percent	32	15	37	11	---
31 to 50 percent	21	08	08	---	---
More than 50 percent	---	08	02	37	---
TOTAL	100	100	100	100	100

#### 4.2.7.1 Local Markets

With the exception of Sigor, which is located in Pokot West Sub County, all the markets utilized by surveyed households with crops to sell are found within the projected affected districts (Pokot Central, Turkana South and Turkana Central Sub Counties). Lochoromoit is the local market most often used by PAP households.

**Table 21. Local Markets Used by Farmers in PAP Households**

Table 21	
Local Markets Used by Farmers in PAP Households	
N = 280	
Settlement	Use Frequency, in Percentage
Marich Pass	03
Sigor	04
Orwa Trading Center	03
Kainuk	02
Kalemng'orok	10
Lokichar	05
Kasuroi	---
Lochaang'ikamatak	03
Lochoromoit	14
Kimabur	01
Loturerei	01
Lodwar	11

#### 4.2.7.2 Livestock Holdings

Pastoralists by tradition, livestock rearing is another source of income in the affected area. The stocks consist of cattle, sheep, goats, poultry, camels and donkeys. However, the Pokots do not rear camels. Goats are the most common stock type (24.3 percent), followed by sheep (15.9 percent) and cattle (10.3 percent). Although livestock is sold, many head are retained by households to assure that bride price can be paid when necessary. Bride price varies, but a price of 200 head of cattle is not uncommon.

**Table 22. Household Livestock Holdings by Stock, Type and Number of Households**

Household Livestock Holdings			
By Stock Type, Number of Households,			
Average Holding per Household and Percent Households with Stock Type			
Livestock	Number	of Average	Percent Households by Stock
Camels	15	08.9	0.09 (n = 10)
Cattle*	12	15.3	69.0 (n = 14)
Donkeys	14	05.1	92.9 (n = 07)
Goats	118	24.3	69.7 (n = 12)
Poultry	41	08.6	69.6 (n = 10)
Sheep	79	15.9	0.08 (n = 09)

## 4.2.8 Land Tenure and Boundaries

### 4.2.8.1 Land Tenure

With few exceptions, the entirety of Pokot Central, Turkana South and Turkana Central Sub County land is Trust Land<sup>58</sup>. However, certain MPLRIP affected land has been developed with structures-many built and some rented or sold—for commercial purposes. Some developers of the commercial buildings have received allotment letters from the County, thereby awarding them title to the land. The most frequently encountered form of land tenure is Trust Land with the greater part of PAPs occupying this category of land, inferring that none of the majority PAP has title to the land the household occupies. Unlike “informal occupants,” the occupiers of Trust Land are known and acknowledged by their county councils. Those who have non-ancestral claims will be provided land in a place of their choice or will be provided money to look for land in a place with the County Land Board awarding allotment letters for new settlements.

### 4.2.8.2 Land Boundaries

Despite land boundaries that, for the most part, have not been formally demarcated, the majority of land users/occupants knows where the boundaries of their land are. In fact, 73 percent claim to know their land boundaries, irrespective of formal demarcation and/or boundary fencing. For those losing land, their loss of land was verified through the village chief, village elders and the council of elders to confirm either ancestral or non-ancestral claim of land.

**Table 23. Knowledge of Land Boundaries**

Table 23							
Knowledge of Land Boundaries							
Settlement	Know	Land	Do	Not	Know	Land	Total
Marich Pass	08				21		29
Kainuk	41				01		42
Kalemng'orok	17				05		22
Lokichar	06				03		09
Kasuroi	15				08		23
Lochaang'ikamatak	17				01		18
Lochoromoit	38				17		55
Kimabur	03				---		03
Loturerei	19				02		21
Lodwar	24				13		37
<b>TOTAL</b>	<b>188</b>				<b>71</b>		<b>259</b>

### 4.2.9 Household Basic Needs

Included among the basic services required to sustain a household are water and energy, the latter used for the dual purposes of cooking and lighting. The survey ascertained the sources for these basic needs among the 280 affected households.

<sup>58</sup> Trust Land is land owned by the County Government on behalf of the community.

#### 4.2.9.1 Water Sources

An affected household's water is supplied from one or more of three systems-groundwater (boreholes and wells); public; and/or surface water (rivers and streams). The degree to which households use one or more of these water sources is dependent upon whether or not they reside in or near Lodwar town (see Table 17). Additionally, other settlements provide some form of public water network to their residents; however, none is as extensive as Lodwar's.

**Table 24. Household Water Sources by Percentage**

Table 24			
Household Water Source			
By Percentage*			
Settlement	Household Water Source		
	Groundwater	Public System	Surface water
Marich Pass	48.6	12.9	38.6
Kainuk	57.7	12.9	37.6
Kalemng'orok	57.2	10.2	32.7
Lokichar	50.0	41.7	08.3
Kasuroi	50.0	50.0	---
Lochaang'ikamatak	76.0	24.0	---
Lochoromoit	74.0	25.5	---
Kimabur	66.7	33.3	---
Loturerei	76.2	23.8	---
Lodwar	05.7	94.3	---

**Table 25. Drinking Water Sources Inside and Outside Lodwar Town by Sources and Percentage**

Table 25			
Drinking-Water Sources Inside and Outside Lodwar Town			
By Source and Percentage			
Location	Household Water Source		
	Groundwater	Public	Surface water
Inside Lodwar	56.3	32.0	11.7
Outside Lodwar	61.9	25.1	13.0

#### 4.2.9.2 Cooking Energy

The survey also established the energy sources used for household cooking. The majority (68.9 percent) uses fuel wood, which is readily available because of the current abundance of surrounding vegetation. Charcoal, which must be purchased, is used by 23.6 percent of surveyed households. Commercial establishments such as hotels and restaurants use the bulk of purchased charcoal. The household balance (7.4 percent) uses paraffin and gas in equal proportions.

**Table 26. Household Cooking Energy Sources By Household Frequency and Percentage**

Table 26
Household Cooking Energy Sources

By Household Frequency and Percentage		
Cooking Energy Type	Household Frequency	Percentage of Households
Charcoal	63	23.6
Fuel wood	184	68.9
Gas	10	03.7
Paraffin	10	03.7
TOTAL	267	99.9

#### 4.2.9.3 Lighting Energy

The reliance on particular energy sources for household lighting in lieu of cooking is reversed, however. The majority (65.7 percent) uses paraffin in their lamps for lighting, and the next highest source of lighting energy is electricity (18.3 percent). Paraffin, which is affordable, is purchased from local fuel traders. Generators produce electricity. Solar panels are becoming more widely used because of abundant solar energy in the project area; nevertheless, solar energy is not common because it requires costly structural wiring. Those households that indicated torches are used explained that this lighting source is mainly relied upon to move about in the dark. The use of candles is rare, normally relegated to the least preferred option.

**Table 27. Household Lighting Energy Sources by Household Frequency and Percentage**

Table 27		
Household Lighting Energy Sources		
By Household Frequency and Percentage		
Lighting Energy Type	Household Frequency	Percentage of Households
Electricity	40	18.3
Paraffin	144	65.7
Solar	14	06.4
Torch	21	09.6
TOTAL	219	100

#### 4.2.10 Affected Household Incomes and Properties

##### *Household Survey Methodology*

The methodology used to characterize the MPLRIP affected households was to survey 100 percent of the PAPs on the ROW.

##### *Non-agricultural Incomes*

In terms of non-agricultural incomes disclosed by the respondents, they vary widely. For example, one bar operator reported a monthly income of Ksh 60,000 while two operators reported monthly incomes of Ksh 150,000 each. The mean is normally used to determine the average of a range of values. However, in those instances where the data are skewed, i.e., a range in which very high or very low values appear in an otherwise symmetrical distribution, the median is used to describe the mid point value. Nonetheless, indicative incomes in all occupational categories for the MPLRIP affected population can be surmised from the available data. The median value 14 in a range of reported income values is suggestive of monthly incomes earned for a particular occupation when the distribution is very skewed.

Table 22 presents median as well as mean (average) values for disclosed incomes earned in occupations reported by surveyed households. For purposes of determining a total of non-agricultural PAP incomes for compensation, the median income was used in those circumstances with highly skewed values such as incomes from operating a bar. For all other income totals, the mean was used. This was clearly explained to the PAPs during the census survey and approved. Total non-agricultural incomes that are eligible for compensation are given in **Table 28**.

**Table 28. Reported Monthly Incomes from Non-Agricultural Sources (in 000's Ksh)**

<b>Table 28</b>						
<b>Median and Mean Values</b>						
<b>Reported Monthly Incomes from Non-Agricultural Sources (in 000's Kshs)</b>						
<b>All Surveyed Households (280)</b>						
<b>Occupation</b>	<b>Reported Number Engaged in Primary Occupation</b>	<b>Number of Disclosed Incomes</b>	<b>Reported Monthly Incomes</b>			
			<b>Income Range</b>		<b>Median Value</b>	<b>Mean Value</b>
			<b>Low Value</b>	<b>High Value</b>		
Bar	03	03	60	150	105.0	120.0
Barbershop	07	07	0.50	9.0	3.75	4.14
Bicycle repair	07	07	1.25	20.0	3.50	8.63
Booking/ticketing office	01	01	30.0	30.0	30.00	30.0
Butchery	15	15	2.4	48.0	24.0	24.8
Charcoal sale	01	01	0.15	0.15	0.15	.15
Gold mining	07	07	1.0	1.0	1.0	1.0
Hotel/cafe	15	14	1.0	50.0	40.0	31.0
Medical doctor	01	01	10.0	10.0	10.0	10.0
Milling/grinding	06	06	1.5	40.0	22.0	25.1
Petrol Station	03	03	10.0	200.0	105.0	136.67
Rental property	08	08	3.0	22.0	4.0	8.88
Sand quarrying	03	03	12.0	12.0	12.0	12.0
Shop/boutique	18	18	4.75	48.0	24.0	25.34
Small vendor	67	67	5.0	65.0	8.0	14.64
Tailoring	02	02	4.0	50.0	27.0	27.0
Vehicle repair	01	01	70.0	70.0	70.0	70.0
Welding	03	03	35.0	35.0	35.0	35.0
Woodworking (carpentry)	05	04	3.50	45.0	24.75	28.4

**Table 29. Indicative Monthly and Yearly Incomes per Reported Occupation (Non Agricultural Sources in 000's Ksh)**

<b>Table 29</b>		
<b>Indicative Monthly and Yearly Incomes per Reported Occupation</b>		
<b>Non-Agricultural Sources (in 000's Kshs)</b>		
<b>All Surveyed Households (280)</b>		
<b>Occupation</b>	<b>Indicative Monthly Income (Kshs)</b>	<b>Indicative Yearly Income (Kshs)</b>
Bar	315.00	3780.00
Barbershop	28.98	347.76
Bicycle repair	60.41	724.92
Booking/ticketing office	30.00	360.00
Butchery	372.00	4464.00
Charcoal sale	0.15	1.80
Gold mining	7.00	84.00
Hotel/cafe	650	6720.00

Medical doctor	10.00	120.00
Milling/grinding	150.60	1807.20
Petrol Station	315.00	3780.00
Rental property	71.04	857.48
Sand quarrying	36.00	432.00
Shop/boutique	456.12	5473.44
Small vendor	980.88	11770.56
Tailoring	54.00	648.00
Vehicle repair	70.00	840.00
Welding	35.00	420.00
Woodworking (carpentry)	99.00	1188.00
<b>TOTAL</b>	<b>3651.18</b>	<b>43,814.160</b>

For purposes of the compensation budget, indicative annual non-agricultural compensation for MPLRIP affected households totals Ksh 43,814,160. During the period after displacement and relocation, the PAPs will require monthly income payments according to their discrete occupations until they have restored their pre-displacement levels of livelihood. Inability or unwillingness on the survey respondent's part to disclose income information may be attributed to one or more reasons. Formal record keeping is not widely practiced among the affected households in the project area; thus, income records simply may not be available.

Moreover, the near majority (42.3 percent) of the surveyed households are pastoralists whose nomadic habits result in incomes that vary depending upon their circumstances. Finally, respondents, who receive food aid or other assistance from organizations such as WFP, WVI and FAO, may fear that disclosure could jeopardize continued assistance from these or other groups. Majority of the respondents spend their disposable income on essential household food items, transport, clothing, school fees and education.

#### 4.2.11 Agricultural Incomes

Agricultural incomes are based upon crops raised and livestock sold throughout the course of a year. Table 24 summarizes crop incomes, basing the income to a household on its total crop production, not on its crops sold. In other words, consuming part of a harvest in lieu of selling that part will result in less retained sales income, but whatever part is consumed by the family will not have to be purchased or replaced using household cash at the market.

**Table 30. Indicative Annual Incomes, all Reported Crops by Settlement**

<b>Table 30</b>		
<b>Indicative Annual Incomes, All Reported Crops</b>		
<b>By Settlement (in 000's Kshs)</b>		
<b>All Surveyed Households (280)</b>		
<b>Settlement</b>	<b>Crops Produced</b>	<b>Indicative Total Annual Crop</b>
Marich Pass	Beans; maize, cow peas; millet; sorghum	613.95
Kainuk	Maize	31.98
Kalemng'orok	Beans; maize; cow peas; groundnuts; sorghum;	373.44
Lokichar	Cow peas; millet; sorghum	126.26
Kasuroi	Cowpeas	17.06
Lochaang'ikamatak		



Lochoromoit		
Kimabur		
Loturerei		
Lodwar		
<b>Total</b>		1162.69

Another component of household agricultural income is derived from the sale of livestock and other farm products such as honey or milk. **Table 31** that follows summarizes the income data.

**Table 31. Indicative Annual Incomes, Livestock and Other Products Sold by Settlement**

<b>Table 31</b>			
<i>Indicative Annual Incomes, Livestock and Other Products Sold</i>			
<b>By Settlement (in 000's Kshs )</b>			
<b>All Surveved Households (280)</b>			
<b>Settlement</b>	<b>Livestock</b>	<b>Other Products</b>	<b>Indicative Total Annual</b>
Marich Pass	Goats	Milk	45.72
Kainuk	Goats; sheep		149.51
Kalemng'orok	Goats; sheep; cattle; donkeys; chickens;	Milk; charcoal	2421.02
Lokichar	Goats; sheep; chicken	Charcoal	297.85
Kasuroi	Goats; sheep		204.16
Lochaang'ikamatak			
Lochoromoit	Goats; sheep; camels	Honey;	23710.19
Kimabur	Goats; sheep; camels	Charcoal	1660.86
Loturerei	Goats; sheep; chickens	Charcoal	971.52
Lodwar	Goats; sheep; chickens	Charcoal	4076.20
<b>Total</b>			33536.98

#### 4.2.12 Food-Aid Incomes

For many of the MPLRIP affected population, food aid provided by International Non Governmental Organizations (INGOs), World Food Programme (WFP) and Government of Kenya (GOK) is critical. The climate is not conducive to raising household staples; therefore, provision of these staple foods is vital to basic survival. Table 32 summarizes reported food aid. Because of recipients' likely cultural reluctance to disclose this information—nondisclosures that would result in undercounts, the amounts of annual assistance found in **Table 32** are indicative only.

**Table 32. Reported Food Aid**

<b>Table 32</b>		
<b>Food Aid</b>		
<i>Indicative Average Annual Assistance</i>		
<b>Per Settlement (in 000's Kshs<sup>s</sup>)</b>		
<b>Settlement</b>	<b>Food Aid Commodity</b>	<b>Total Annual Aid (Kshs)</b>
Marich Pass	Beans; cooking oil; maize; Unimix	39.761
Kainuk	Beans; cooking oil; maize	133.322
Kalemng'orok	Beans; cooking oil; maize	13.332
Lokichar	Beans; cooking oil; maize	27.043
Kasuroi	Beans; cooking oil; maize; Unimix	73.631
Lochaang'ikamatak	Beans; cooking oil; maize	42.286

Lochoromoit	Beans; maize; Unimix	19.760
Kimabur	- - -	- - -
Loturerei	Beans; cooking oil; maize	12.055
Lodwar	Beans; cooking oil; maize	27.430
<b>TOTAL</b>		<b>388.620</b>

#### 4.2.13 Incomes from Pension, Remittance or Other Source

The final source of household income in the project-affected area is some form of entitlement—either earned (pension) or gifted (remittance or donation). These amounts for PAP households are nominal in the aggregate, but considerable in the lives of the recipients. Again, reluctance to disclose these sources of income may have discouraged full disclosure on the recipients' parts. **Table 33** summarizes annual income data. The monetary amounts in this table appear in full Ksh values, unlike the prior tables that presented values in decimal notations.

**Table 33. Annual Income from Pension, Remittance or Other Sources per Settlement**

Table 33		
<i>Indicative Annual Income from Pension, Remittance or Other Source</i>		
Per Settlement (Ksh)		
Settlement	Earned or Gifted Income Source	Annual Income Amount
Marich Pass	Pension	6,000.
Kainuk	---	---
Kalemng'orok	Pension	6,000.
Lokichar	Pension	35,000.
Kasuroi	---	---
Lochaang'ikamatak	Pension	15,000.
Lochoromoit	Pension; remittance; donation	237,600.
Kimabur	---	---
Loturerei	Remittance	126,000.
Lodwar	Remittance	702,000.
<b>TOTAL</b>		<b>1,127,600.</b>

#### 4.2.14 Total Affected Household Incomes, All Sources

**Table 34** that follows presents the grand total of indicative incomes reported by 280 surveyed households, irrespective of settlement. The qualifier—indicative—is used throughout the presentations of incomes because certain incomes were likely unreported, i.e., pastoralists' incomes, and other incomes might have been underreported, e.g., types and amounts of food aid. To correct for any indeterminate incomes, the involvement of local compensation committees in finalizing monthly incomes due to all PAPs is recommended. The precepts of fairness and diligence underpin resettlement, and to achieve these principles, the deliberations of compensation committee in each jurisdiction, when and where necessary, can assist in resolving any uncertainties.

**Table 34. Total Indicative Annual Household Incomes**

Table 34	
Total <i>Indicative</i> Annual Household Incomes (Ksh)	
All Sources	
MPLRIP-Affected Households	
Income Source	Total Reported Annual Income from Specific

Non-agricultural occupations	43,814,160.00
Agricultural sales (crops, livestock and other)	34,699,670.00
Food aid distributions	388,620.00
Earned or gifted funds <sup>1</sup>	1,127,600.00
<b>GRAND TOTAL</b>	<b>80,030,050.00</b>

## 4.2.15 Properties of Affected Households

### 4.2.15.1 Land

With few exceptions, the entirety of Pokot Central, Turkana South and Turkana Central land is Trust Land. The vast majority of PAPs occupies Trust Land, inferring that none of these majority PAPs has title to the land the household occupies. Unlike “informal occupants<sup>59</sup>,” the occupiers of Trust Land are known and acknowledged by their county councils. Because land in the three districts is predominantly Trust Land without individual title deeds, the ancestral system of land occupation is evident. However, among the 280 project-affected households surveyed in the three project-affected districts, only Loturerei in Turkana Central had no non-ancestral settlers; all surveyed Loturerei households were ancestral claimants to land. Conversely, Lodwar, also located in Turkana Central, had the most non-ancestral settlers—65 percent, underscoring the immigration of outsiders to Lodwar to take advantage of the town’s business opportunities.

In fact, certain MPLRIP affected lands have been developed with structures—many built and some rented or sold—for commercial purposes, with allotment letters issued by county councils and land titles received. The findings related to land holdings are found in Appendix of the RAP valuation schedule in which names of land users/occupants and their affected properties are valued.

### 4.2.15.2 Buildings and Structures

To organize the valuations and subsequent reporting, buildings affected by the MPLRIP were classified according to their durability, i.e., permanent, semi-permanent or temporary. Classes of buildings are tabulated below.

**Table 35. Building Classifications by Type**

Table 35						
Building Classification, by Type						
Type	Classification	Floor	Walls	Roof	Doors	Windows
A	Permanent	Cement screed, various finishes	Natural stone Fired bricks, high quality	Concrete tiles Clay tiles CGI <sup>1</sup>	Steel Timber	Glazed in steel Timber casements

<sup>59</sup> Informal occupants denote new settlers in the project area who have no ancestral roots or past with Pokots or Turkanas in the project area. Majority of the PAPs however are locals and born and raised in the area.

B	Semi-permanent	Cement screed variously finished	Fired bricks, low quality Timber	CGI	Timber CGI Steel	Glazed in steel Timber casements
C	Semi-permanent	Earth	Mud/Earth	Thatch grass	Timber Cardboard	Timber casements Tin
D	Temporary	Earth Cane Timber	Earth Cane Timber Tin sheets None	Thatch Cardboard	Timber None	None

The frequency of building types encountered among the surveyed households affected by the MPLRI is tabulated which presents total building values for each household as well as the incidence and values of trees and graves for these households.

**Table 36. Building Class**

Table 36		
Building Class		
MPLRI Project-Affected Households		
Class	Frequency	Percent
Type A	48	11.76
Type B	04	0.98
Type C	284	69.61
Type D	67	16.42
<b>Total</b>	408	□100.0 <sup>1</sup>

The values established for the 408 buildings affected by the project were determined applying the replacement cost method. Replacement cost of an asset is the sum of money required to replace the asset in its existing condition. This implies that the replacement cost of housing will usually be equal to the cost of constructing/purchasing equivalent new housing, without making any deductions for depreciation.

**Table 37. All types of Buildings**

Table 37		
Buildings, All Types		
Total Value (Ksh)		
MPLRI Project-Affected Households		
Building Type	Total Number	Total Value (Ksh)
A, B, C, D	408	58,911,265.00

#### **4.2.15.3 Crops and Trees**

Given the unforgiving climate in the project area, perennial crops of economic importance such as tea, coffee or sugarcane were not found. Generally, annual food

crops, which are sparse throughout the project area, are not eligible for compensation because they can be harvested prior to relocation. Trees, on the other hand, cannot be harvested upon notice to relocate unless they are species that yield timber useful for building construction. Although the incidence of trees with economic value is virtually non-existent, there are tree species growing within the compounds of affected households that were valued for compensation. In addition, trees planted by public authorities on public land or in the road project ROW/realignment were valued for compensation. Tree species located in household compounds or on public properties are tabulated below; their local uses are noted to underscore their importance to household subsistence. No distinction is made between private or public trees in Table 38. Moreover, the unique tree species and their valuations located within household compounds are listed in Appendix 2.

**Table 38. Common Tree Species and Their Local Uses**

<b>Table 38</b>		
<b>Common Tree Species and Their Local Uses</b>		
<b>All Project-Affected Districts</b>		
<b>Common Name</b>	<b>Botanical Name</b>	<b>Local Use</b>
Edome	<i>Cordia sinensis</i>	Roots used for treating diabetes, constipation and <ul style="list-style-type: none"> <li>• Leaves used for sprinkling water on supplicants during ritual cleansing ceremonies</li> <li>• Leaves used to prepare mat upon which the deceased are placed for cleaning</li> <li>• Fruits used for human consumption</li> <li>• Leaves used by animals for fodder</li> <li>• <b>Wood used for building construction</b></li> </ul>
Ekalale	<i>Ziziphus mauritiana</i>	<ul style="list-style-type: none"> <li>• Consumption of fruits by both human and livestock</li> <li>• Conversion to charcoal for home use or for sale</li> <li>• <b>Provides construction material</b></li> </ul>
Etilae	<i>Prosopis juliflora</i> <sup>17</sup>	<ul style="list-style-type: none"> <li>• Consumption of seeds by goats</li> <li>• Provides construction material</li> <li>• Provides fencing materials</li> <li>• Conversion to charcoal for home use or for sale</li> </ul>
Ewoi	<i>Acacia senegal</i>	<ul style="list-style-type: none"> <li>• Consumption of leaves and fruits by livestock (goats, sheep and cattle)</li> <li>• Conversion to charcoal for home use or for sale</li> </ul>
Miswak	<i>Salvadora persica</i>	<ul style="list-style-type: none"> <li>• Oral hygiene</li> <li>• Medicinal uses</li> <li>• <b>Slows desertification by fixing soil</b></li> </ul>
Neem	<i>Azadirachta indica</i>	<ul style="list-style-type: none"> <li>• Treats at least 40 diseases</li> <li>• Conversion to charcoal for home use or for sale</li> </ul>

*Prosopis juliflora*, despite its many uses and services in providing building construction and primary materials for charcoal as well as conserving soil and rehabilitating saline soils, can be removed; efforts to save it from construction harm or to replace it with the same species would be in violation of Kenya’s classification of it as a noxious weed.

While every tree species (with the exception of *P. juliflora*) is vital to project affected communities and the planet by way of their environmental services, one particular species of tree—Edome or *Cordia sinensis*—was singled out by PAPs as a highly valued tree, one that should not be removed by the road construction contractor. Edome’s many uses—cultural, economic and medicinal—are summarized in Table 33 on the preceding pages. Along with the Edome tree, other more common trees growing along the project road alignment are vital to the well being of inhabitants and their livestock. The many tree species—predominantly Acacia Senegal, or gum tree due to its importance elsewhere in gum arabic production—enumerated and valued in Appendices are eligible for compensation. Total tree values are provided in the following table.

**Table 39. Tree Values, including Statutory 15 Percent**

<b>Table 39</b>	
<b>Tree Values, including Statutory 15 Percent</b>	
<b>By Private (Surveyed Households) and Public (County and Municipal Authorities)</b>	
<b>Location of Project-Affected Trees</b>	<b>Total Value of Trees including Statutory 15 percent</b>
Private compounds (surveyed households)	106,911.00
Public (county or municipal authorities)	306,489.50
<b>GRAND TOTAL</b>	<b>413,400.50</b>

#### **4.2.15.4 Sites of Cultural Importance**

Within the MPLRIP-affected area, no community sites of cultural importance were happened upon. Graves within household compounds were frequently encountered—several directly affected and many indirectly affected by possible construction activities. The ownership and location of family graves are discussed in the subsequent subsection below.

#### **4.2.15.5 Graves**

Throughout the project area, a total of 43 graves was acknowledged by the 280 enumerated households, all located within the family compound but only 2 located within the ROW.

**Table 40. Directly Affected Gravesites within the Road Reserve**

<b>Table 40</b>
<b>Directly Affected Gravesites within the Road Reserve</b>
<b>By Compound Owner and Location</b>

Nearest Settlement	Name of Owner	Survey Identification Number	Details of Identified Grave(s)	Total Number of Directly Affected Graves
Lochaang'ikamatak	Emmanuel Nanok	10038R, 10039R	There are four graves for both parents and two children: one child's grave is 2 m from the wall of the affected building; the others are 10 m from the affected building wall.	1
Lochoromoit	Daniel Juluk	12081R	The imperiled grave is 3 m from the back wall of the affected building.	1

Irrespective of the above listed graves, the remaining 41 graves, all associated with buildings, structures and other properties to be displaced and all in relatively close proximity to the road reserve will be indirectly impacted by the road construction and will have to be moved. Prior knowledge of their locations is important to the construction contractor in any activities-for example, movement of heavy machinery into and out of the road reserve or placement of materials stockpiles-that might damage or dislodge them.

Their locations are tabulated below according to the settlement nearest the affected gravesites. The two graves enumerated above in **Table 40** are not included in the following tally.) Ownership and location details for all potentially affected graves are contained in Appendix.

**Table 41. Indirectly Affected Gravesites**

Table 41	
Indirectly Affected Gravesites	
Total N = 280	
Settlement Nearest Affected Gravesites	Number of Gravesites
Marich Pass	---
Kainuk	07
Kalemng'orok	11
Lokichar	---
Kasuroi	01
Lochaang'ikamatak	05
Lochoromoit	06
Kimabur	05
Loturerei	02
Lodwar	04
<b>TOTAL</b>	<b>41</b>

Worth noting when resettlement of households with graves is contemplated: all interviewed family members made the request to be resettled near their current homes in order to keep vigil over their family graves. This request was made more fervently in the instances of gravesites for their elderly family member—most likely their parents—because greater homage is paid to the graves of the elderly, unlike the graves of children.

These resettlement requests are to be made known to the client and/or resettlement consultant, the construction contractor and the relevant compensation committee. In terms of the client’s resettlement and construction contractors, the requests are to be made part of their Terms of Reference.

**4.2.15.6 Total Property Compensation, All Affected Assets**

Values for the foregoing affected properties—land; buildings and structures; trees, private and public alike; and graves—were established in the course of field research conducted by the consultant’s property/land valuer. The total compensation due and payable to project-affected households is provided below.

**Table 42. Total Property Values, All assets of Project - Affected Households**

<b>Table 42</b>	
<b>Total Property Values, All Assets of Project-Affected Households</b>	
<b>Including Statutory 15 Percent Award</b>	
<b>Land, Buildings/Structures, Trees (Public and Private) and Graves</b>	
Land	---
Buildings/structures	64,802,391.50
Trees (private and public)	413,400.50
Graves	20,000.00
<b>GRAND TOTAL</b>	<b>65,235,791.00</b>



## CHAPTER FIVE

### 5 THE IMPACT OF THE PROJECT ON PAPS

The impact of the project on PAPS is presented in this chapter. Apart from showing the nature, magnitude and types of impact, the description and analysis presented in this chapter serve other purposes: first it serves as the basis on which the valuation and compensation of assets lost by the PAPS is undertaken. Second, various income restoration and improvement strategies formulated in this RAP are partly based on the assessment of the severity of the impact and loss of assets by different categories of PAPS. Apart from individual households, the project also affects the assets of few public institutions and community-group assets. Both are described below in some detail and the description and analysis is organized on combination and cross tabulation of the following variables:

The total number of **project affected households** and the types and amount of household assets affected: land, housing and related structures, and perennial crops and trees;

All the PAPS tabulated in the table below 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. The project is however as a mitigation measure for lost income, 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 entrepreneurs.

Table 43. Summary of Resettlement Impact -Category

Affected HH	Affected Building/Structures	Trees Loss	Affected Graves
280	408	208	43

#### 5.1 Impact on Land

Land is the main asset and source of livelihood of the PAPS. The project will not acquire any land since the PAPS are on the Right of Way (ROW), which is owned by the Government of Kenya. There will be no compensation for land instead all PAPS will be compensated for structures and crops.

#### 5.2 Impact on Structures

##### 5.2.1 Housing and Other Structures

Table 44. Building Class

Table 44
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<b>Building Class</b>		
<b>MPLRI Project-Affected Households</b>		
<b>Class</b>	<b>Frequency</b>	<b>Percent</b>
Type A	48	11.76
Type B	04	0.98
Type C	284	69.61
Type D	67	16.42
<b>Total</b>	408	□100.0 <sup>1</sup>

The values established for the 408 buildings affected by the project were determined applying the full replacement cost method. The valuation basis adopted for valuing the developments on the land taken for compensation is the current replacement cost or equivalent reinstatement basis or probable cost of acquiring similar premises for the same purpose. This is the amount it would cost to search for a supplier of the construction material, the cost to purchase, transport and insure the materials to the site, and the costs of erection of the premises, including professional fees, and completed to a standard as existing at the valuation date. It should be noted that the structures have not been valued at market value because replacement cost is not synonymous with value. The main purpose of valuing the structures for compensation is to reinstate the owner to build similar structures on another site. In obtaining the unit cost for reinstatement we shall take into consideration the cost of construction rates recommended by Ministry of Public Works.

**Table 45. Buildings, All Types**

<b>Table 45</b>		
<b>Buildings, All Types</b>		
<b>Total Value (Ksh)</b>		
<b>MPLRI Project-Affected Households</b>		
<b>Building Type</b>	<b>Total Number</b>	<b>Total Value (Ksh)</b>
A, B, C, D	408	65,235,791.00

### **5.3 Perennial Crops and other Trees**

Given the unforgiving climate in the project area, perennial crops of economic importance such as tea, coffee or sugarcane were not found. Generally, annual food crops, which are sparse throughout the project area, are not eligible for compensation because they can be harvested prior to relocation. Trees, on the other hand, cannot be harvested upon notice to relocate unless they are species that yield timber useful for building construction. Although the incidence of trees with economic value is virtually non-existent, there are tree species growing within the compounds of affected households that were valued for compensation. In addition, trees planted by public authorities on public land or in the road project ROW/realignments were valued for compensation.

Tree species located in household compounds or on public properties are tabulated below; their local uses are noted to underscore their importance to household subsistence. No distinction is made between private or public trees in Table 46. Moreover, the unique

tree species and their valuations located within household compounds are listed in Appendix. Likewise, tree species and their valuations found within public properties, e.g., buildings in which the Turkana County are housed, are itemized in Appendix.

The trees were valued based on compensation schedules prepared by the Kenya Forest Service for various species depending on age and its future potential. The consultant also took into account the extent of utilization, type of species, quality of logs, diameter of the logs and quality of the log.

**Table 46. Common Tree Species and Their Local Uses**

<b>Table 46</b>		
<b>Common Tree Species and Their Local Uses</b>		
<b>All Project-Affected Districts</b>		
<b>Common Name</b>	<b>Botanical Name</b>	<b>Local Use</b>
Edome	<i>Cordia sinensis</i>	Roots used for treating diabetes, constipation and <ul style="list-style-type: none"> <li>• Leaves used for sprinkling water on supplicants during ritual cleansing ceremonies</li> <li>• Leaves used to prepare mat upon which the deceased are placed for cleaning</li> <li>• Fruits used for human consumption</li> <li>• Leaves used by animals for fodder</li> <li>• Wood used for building construction</li> </ul>
Ekalale	<i>Ziziphus mauritiana</i>	<ul style="list-style-type: none"> <li>• Consumption of fruits by both human and livestock</li> <li>• Conversion to charcoal for home use or for sale</li> <li>• Provides construction material</li> </ul>
Etilae	<i>Prosopis juliflora</i> <sup>17</sup>	<ul style="list-style-type: none"> <li>• Consumption of seeds by goats</li> <li>• Provides construction material</li> <li>• Provides fencing materials</li> <li>• Conversion to charcoal for home use or for sale</li> </ul>
Ewoi	<i>Acacia senegal</i>	<ul style="list-style-type: none"> <li>• Consumption of leaves and fruits by livestock (goats, sheep and cattle)</li> <li>• Conversion to charcoal for home use or for sale</li> </ul>
Miswak	<i>Salvadora persica</i>	<ul style="list-style-type: none"> <li>• Oral hygiene</li> <li>• Medicinal uses</li> <li>• <u>Slows desertification by fixing soil</u></li> </ul>
Neem	<i>Azadirachta indica</i>	<ul style="list-style-type: none"> <li>• Treats at least 40 diseases</li> <li>• Conversion to charcoal for home use or for sale</li> </ul>

*Prosopis juliflora*, despite its many uses and services in providing building construction and primary materials for charcoal as well as conserving soil and rehabilitating saline soils, can be removed; efforts to save it from construction harm or to replace it with the

same species would be in violation of Kenya’s classification of it as a noxious weed.

While every tree species (with the exception of *P. juliflora*) is vital to project affected communities and the planet by way of their environmental services, one particular species of tree—Edome or *Cordia sinensis*—was singled out by PAPs as a highly valued tree, one that should not be removed by the road construction contractor. Edome’s many uses—cultural, economic and medicinal—are summarized in Table 40 on the preceding pages. Along with the Edome tree, other more common trees growing along the project road alignment are vital to the well being of inhabitants and their livestock.

The many tree species-predominantly Acacia Senegal, or gum tree due to its importance elsewhere in gum arabic production-enumerated and valued in Appendices are eligible for compensation. Total tree values are provided in the following table.

**Table 47. Tree Values, Including Statutory 15 Percent**

<b>Table 47</b>	
<b>Tree Values, including Statutory 15 Percent</b>	
<b>By Private (Surveyed Households) and Public (County and Municipal Authorities)</b>	
<b>Location of Project-Affected Trees</b>	<b>Total Value of Trees including Statutory 15 percent</b>
Private compounds (surveyed households)	106,911.00
Public (county or municipal authorities)	306,489.50
<b>GRAND TOTAL</b>	<b>413,400.50</b>

#### **5.4 Impact on Assets of Public and Community Institutions**

Visits made to the project area and discussions held with key informants indicated that the project will have no impacts on social service facilities like public buildings, schools, health facilities, electric and telephone lines and religious institutions. Therefore, no compensation measures will be required.

#### **5.5 Vulnerable Groups**

Vulnerable persons were given added recognition in the household survey because they are to be given beneficial treatment—both during and after resettlement. The types of beneficial interventions are dependent upon the category of vulnerability. But in all cases, food assistance is necessary, when the data regarding food aid distributions and widespread child malnutrition are taken into account.

By convention, the following categories of vulnerable PAPs are singled out for relevant forms of special treatment: elderly persons over 55 years; younger persons under 15 years; widows; orphans; persons without families; single mothers; the disabled, physically and/or mentally; and, the chronically ill (e.g., HIV/AIDS). Among the surveyed households, a total of 1,839 persons was identified as vulnerable. The two most frequently encountered categories of vulnerability involved children: children under 15 years (42.8 percent) and orphans (21.5 percent).

In the context of the Project, vulnerable people also 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.<sup>60</sup>

**Table 48. Vulnerable PAPs**

<b>Table 48</b>		
<b>Vulnerable Persons in Affected Households</b>		
<b>By Category Frequency and Percentage</b>		
<b>Vulnerability Category</b>	<b>Vulnerability Frequency</b>	<b>Percentage of Total</b>
Elderly persons over 55 years	29	01.6
Young persons under 15 years	787	42.8
Widows	112	06.1
Orphans	396	21.5
Persons without families	81	04.4
Single mothers	- - -	- - -
Disabled (physically and/or mentally)	144	07.8
Chronically ill	65	03.5
<b>TOTAL</b>	<b>1,839</b>	

### 5.5.1 Households with Elderly Members More Than 55 Years of Age

Although this vulnerability category is minimally represented among MPLRIP households, the elderly experience substantial difficulty in adjusting to resettlement, a reaction that is well documented in the literature. The elder members of a community have life-long attachments to that community and to its location.

The losses of community and place are compounded, in part, by the loss of social standing and respect, the result of community structures unraveling. No less, the elderly are unable to restore their economic security—they lack the capacity to develop new sources of income. The consequences of resettlement upheaval for the elderly are increased health risks, including death.

### 5.5.2 Households with Children Less Than 15 Years of Age

School aged children may have their educations disrupted by relocation from their homes in the project-affected area—for an unknown period of time. Hence, special efforts must be made to assure that the interruption in schooling is minimized to assure that students from affected households are not permanently lost from the school rolls.

When MPLRIP-affected households are resettled, school aged children may lose physical or economic access to education despite its importance to the development of a nation. To mitigate this potential negative outcome, special arrangements must be devised and implemented to assure that displaced children are able to continue their schooling prior to and following resettlement. These arrangements may take the form of state assisted

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<sup>60</sup> 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

boarding schools, state assisted daily transportation to nearby operational schools and/or state assisted feeding programmes to assure proper nutrition for children from homes where parents may not have yet reestablished their livelihoods.

### **5.5.3 Households with Widows or Persons without Families**

These two vulnerable groups in aggregate constitute more than 10 percent of all vulnerable persons. Widows represent a special category of compensation/resettlement vulnerability. In the case of widows, their rights to land and property are often extinguished by the death of their spouses. Often the extended family of the deceased husband claims the widow's assets; even in instances of any male children for whom their dead father's assets are held in trust by male members of the extended family or clan. People without families face the same dilemma. The matter of compensation eligibility is daunting for this group as well because of questionable and subsequent property compensation. Special consideration must be given to these vulnerable populations during allocation of land. The prospects of being landless and homeless are unnecessary if county authorities and resettlement officials are attuned to—and attend to—the needs of the vulnerable.

### **5.5.4 Households with Orphans**

Certain circumstances may help to explain the high percentage of orphans (21.5 percent)—death of parents attributable to the alarmingly high rate of malaria; the increasing rate of HIV/AIDS; and the persistent deadly cattle clashes between Pokot and Turkana. Slightly more than one in five vulnerable persons is an orphan, who, quite likely, is dependent upon food assistance, either individually if not residing with members of an extended family or collectively if living with relatives or friends. Providing food aid to this vulnerable group is imperative. Schooling must be made available to this vulnerable group to begin reversing material deprivation. Efforts are to be made to encourage school aged orphans, irrespective of gender, to regularly attend school, even if special arrangements must be devised and implemented to assure that they are able to attend school prior to and following resettlement.

### **5.5.5 Households with Disabled Persons**

Generally, care for the disabled is provided by the family and the wider community because special services in the project area are simply not available. The dislocation of families from their homesteads and disruption of community networks—however temporary—may leave this vulnerable group without support and care.

To offset the disruption of family and community care for the disabled, the involvement of existing organizations prepared to assist in rendering disabled services is required. Religious groups—for example, Catholic Relief Services with connections to the affected communities—or secular organizations—NGOs such as Merlin International, which currently provides medical services in Turkana County—are to be enlisted to assist in disabled care during the disruption to existing care networks.

### 5.5.6 Households with Chronically Ill Members

In concert with the traditional care given to disabled members of project-affected households during resettlement, the traditional caregiver for this group of vulnerable persons—the chronically ill—is the family and the community. Hence, during displacement and relocation, those households with chronically ill members require financial assistance and medical support. First and foremost in recommended interventions is the site to which families with chronically ill members will be relocated. Unless objections are raised by the families, these households are to be resettled near an existing medical clinic, one that is staffed and supplied with medicines. If a nearby clinic is perpetually understaffed and undersupplied, the GOK is urged to correct those conditions. Secondly, existing organizations, which are prepared to assist in providing services to the chronically ill, are to become involved with support from GOK. Religious or secular groups are to be recruited to assist in the care of chronically ill PAPs during the disruption to existing care networks.

## 5.6 Sites of Cultural Importance

Within the MPLRIP-affected area, no community sites of cultural importance were happened upon. Graves within household compounds were encountered and will be affected by construction activities.

### 5.6.1 Graves

Throughout the project area, a total of 43 graves was acknowledged by the 280 enumerated households, all located within the family compound but only 2 located within the ROW.

**Table 49. Directly Affected Gravesites within the Road Reserve**

Table 49				
Directly Affected Gravesites within the Road Reserve				
By Compound Owner and Location				
Nearest Settlement	Name of Owner	Survey Identification Number	Details of Identified Grave(s)	Total Number of Directly Affected Graves
Lochaang'ikamatak	Emmanuel Nanok	10038R, 10039R	There are four graves for both parents and two children: one child's grave is 2 m from the wall of the affected building; the others are 10 m from the affected building wall.	1
Lochoromoit	Daniel Juluk	12081R	The imperiled grave is 3 m from the back wall of the affected building.	1

Irrespective of the above listed graves, the remaining 41 graves, all associated with buildings, structures and other properties to be displaced and all in relatively close proximity to the road reserve, could be indirectly impacted by the road construction. Prior knowledge of their locations is important to the construction contractor in any activities—for example, movement of heavy machinery into and out of the road reserve or placement of materials stockpiles—that might damage or dislodge them.

**Table 50. Indirectly Affected Gravesites**

<b>Table 50</b>	
<b>Indirectly Affected Gravesites</b>	
<b>Total N = 280</b>	
<b>Settlement Nearest Affected Gravesites</b>	<b>Number of Gravesites</b>
Marich Pass	---
Kainuk	07
Kalemng'orok	11
Lokichar	---
Kasuroi	01
Lochaang'ikamatak	05
Lochoromoit	06
Kimabur	05
Loturerei	02
Lodwar	04
<b>TOTAL</b>	<b>41</b>

Worth noting when resettlement of households with graves is contemplated: all interviewed family members made the request to be resettled near their current homes in order to keep vigil over their family graves. This request was made more fervently in the instances of gravesites for their elderly family member—most likely their parents—because greater homage is paid to the graves of the elderly, unlike the graves of children.

These resettlement requests are to be made known to the client and/or resettlement consultant, the construction contractor and the relevant compensation committee. In terms of the client's resettlement and construction contractors, the requests are to be made part of their Terms of Reference.



**ENTITLEMENT MATRIX**

Affected Asset	Affected Right or Interest	Eligible Entity (Individual or Household)	Eligibility Conditions	Entitlements
<p><b>AGRICULTURAL LAND OWNERS</b></p>	<p><b>TITLED LAND:</b> Land held under a registered title deed</p>	<p>Registered land (usually a physical person – one case in the Project-Affected Area)</p>	<p>Hold a registered land that was registered with relevant Authorities prior to the Cut-Off Date</p>	<p>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, taking into account market values for land, or non-cash compensation of land (land for land)</p> <p>Cash compensation of all immoveable developments on the affected land, such as structures, etc.... - See below “Structures”</p> <p>Cash compensation of standing crops – See below “Crops”</p>
	<p><b>UNTITLED LAND:</b> Land held under customary ownership, and not registered. Customary land owners are those that own land from ancestral inheritance</p>	<p>Customary land owner (legally an unregistered), whether resident or non-resident–<b>INDIVIDUAL</b></p>	<p>Hold, prior to the Cut-Off Date, an unregistered, customary land and be recognized as such</p>	<p>Replacement of lost land by agricultural land of similar potential under similar customary tenure arrangements – or, Cash compensation for land, taking into account market values for the land, or non-cash compensation of land (land for land)</p> <p>Cash compensation of all immoveable developments on the affected land, etc.... - See below “Structures”</p> <p>Cash compensation of standing crops – See</p>

Affected Asset	Affected Right or Interest	Eligible Entity (Individual or Household)	Eligibility Conditions	Entitlements
	<p><b>RENTED LAND:</b> Land rights obtained temporarily as per a customary rental agreement</p>	<p>Tenant as recognized by the customary landowner and customary authorities whether resident or non-resident– <b>INDIVIDUAL</b></p>	<p>Occupy land prior to the Cut-Off date as per a rental agreement recognized by the land owner and customary authorities</p>	<p>below “Crops”</p> <p>No compensation for the land itself</p> <p>Cash compensation to the owner of immovable developments established by the owner and to the tenant of immovable developments that were established by the tenant, such as structures, canals, soil improvement, etc.... - See below “Structures”</p> <p>Cash compensation of standing crops – See below “Crops”</p>
<p>Permanent residents, also customary holders of agricultural land</p>		<p>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</p>		<ul style="list-style-type: none"> <li>- Resettlement house of similar or better quality on a resettlement plot (best practice) or cash compensation of the lost house at full replacement value</li> <li>- 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</li> <li>- Cash compensation of all immovable developments on the affected agricultural land, such as structures, canals, soil improvement, etc....</li> <li>- Cash compensation of standing perennial</li> </ul>

Affected Asset	Affected Right or Interest	Eligible Entity (Individual or Household)	Eligibility Conditions	Entitlements
				<p>crops at replacement value and of non-perennial crops at market value</p> <ul style="list-style-type: none"> <li>- Moving allowance if the household vacates the Project-Affected Area at a given date</li> <li>- Livelihood restoration package</li> </ul>
<b>STRUCTURES</b>	<p><b>RESIDENTIAL HOUSES:</b> Inhabitable houses used as a permanent residence</p>	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 Cash compensation of the lost house per Kenyan law at full replacement value, taking into account market values for the structures
	<p><b>NON RESIDENTIAL STRUCTURES:</b> Non inhabitable house or other structure of any design</p>	Owner - INDIVIDUAL	Be the locally recognized owner of a non residential structure	Cash compensation at full replacement value, taking into account market values of the structures and materials
<b>BUSINESS OWNERS INCLUDING ROADSIDE VENDORS (Squatters/Encroachers on ROW)</b>	<p>PAPS who business types of structures (permanent or temporary) for businesses on GOK's ROW and are hence squatters/encroachers</p> <p>Disruption of various Private Businesses</p> <p>Mobile vendors who sell wares along the road corridor specifically in major centres but with no structures (permanent or temporary)</p>	Compensation for the entire structure at replacement cost as determined by the concerned appraisal committee without deduction for salvaged building materials.		<p>Restorative compensation in accordance with the land Act. No compensation for land</p> <p>Restorative compensation includes disturbance allowance, severance and injurious affection</p> <p>Disturbance allowance is 15% of the market value of the cost of construction of affected structures</p> <p>Compensation for lost income for up to a period of 12 months</p>

Affected Asset	Affected Right or Interest	Eligible Entity (Individual or Household)	Eligibility Conditions	Entitlements
<b>CROPS</b>	<b>STANDING NON PERENNIAL CROPS</b>	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
	<b>STANDING PERENNIAL CROPS</b>	Owner of the crop – INDIVIDUAL	Be the recognized owner of a standing perennial crop	Cash compensation at full replacement value

## CHAPTER SIX

### 6 PUBLIC CONSULTATIONS AND DISCLOSURE

The involvement of PAPs at every stage of the project is mandatory both for smooth implementation of the project as well as assisting PAPs in their efforts to improve or at least restore their income and livelihoods.

#### 6.1 Why Public Consultation: Objectives

Public consultations were held with PAPs, community elders and local officials with the following key objectives among others:

- To inform PAPs about and discuss the nature and scale of adverse impacts of the project on their livelihoods in a more transparent and direct manner and seek their participation in the project cycle.
- To give PAPs affected communities a chance to have a say and express their views in the planning and implementation of the project that affect them directly.
- To obtain qualitative as well as quantitative information on viable income generation and livelihood interventions which PAPs could engage themselves in in order to restore their income and livelihoods in a self-sustaining manner.
- To inform local authorities of the impacts, agree on a cut-off date, solicit their views on the project and discuss their share of the responsibility for the smooth functioning of the overall project operations.

#### 6.2 Consultation Methodology

Consultations were carefully planned and conducted in such a way that ensures efficiency and effectiveness in covering key issues both from the PAPs and communities on the one hand, and the project interests on the other. A number of consultations were carried out with PAPs and carefully selected community elders. Besides, consultations were held with local officials at County, Sub County and Village levels.

#### 6.3 Major Findings of Public Consultations

During public consultations with PAPs and community groups, a number of important points were raised and discussed. Key agenda points that were forwarded for discussion with PAPs and community groups included impacts of the project-both positive and negative-on local community members, issues regarding property registration and valuation for compensation, presentation and discussion of compensation options available to PAPs, and availability of skills and opportunities for participation in income and livelihood restoration schemes.

Since the details of the consultations are too wide-ranging and too broad to be presented here, only a summary of key issues discussed and major findings are sub divided into relevant categories and presented in the section below. These broader categories into which key findings of the consultations are regrouped include anxiety, fears,

uncertainties, preferences, needs, demands, reservations, expectations, hopes, needs, aspirations, general comments, commitments, appreciation, and questions for clarifications.

## 6.4 Findings of Consultations with PAPs

Table below shows the perceptions of the PAPs in regard to project benefits and impacts as a result of the original consultations conducted during the preparation of the RAP.

**Table 51. Perceptions of Benefits and Impacts by PAPs**

<b>Table 51</b>		
<b>Collective Perceptions of Benefits and Costs, MPLRI Project</b>		
<b>By Affected Sub County</b>		
	<b>Anticipated Benefits</b>	<b>Perceived Impacts</b>
<b>Pokot Central</b>	Transportation will be improved with increased public transport	Resettlement distant from the road and its amenities
	Business growth in response to improved transport of goods and services	Discriminatory compensation by way of higher compensation paid to businesses than to individuals
	Improved economy because local transporters will be willing to invest in buses and motorcycles	Economic losses because title deeds are not held by many affected households
	Bus and <i>boda- boda</i> fares will decrease	Buildings constructed by and for groups will not be fully compensated
	Jobs will be created to reduce unemployment	Partially built structured will not be fully compensated
	Security will improve because lorries carrying goods can travel faster	Trees not being compensated despite the difficulty of planting and maintaining them
	Economy will improve because trade will be opened up with South Sudan	Group- ranch members will not be fully and fairly compensated
	An improved road will attract investors	Road accidents will increase due to increased vehicle speeds and absence of speed controls such as signage and humps
		Construction contractor will not purchase local resources, e.g., sand and rock
		Constructor contractor will bring foreign workers and not hire locals
	Inadequate, incorrect and delayed compensation	

		Delay in construction start
Turkana South	Increased tourism income from Turkana South Game Reserve	Denied compensation because title deeds not issued
	Improved opportunities for local employment at oil- production facilities	Decisions made by government officials far distant from project site
	Improved <i>boda- boda</i> businesses	<i>Manyattas</i> may be undervalued
	Transport costs will decrease	Loss of culturally important trees
	Improved economy because of increased trade with South Sudan	Buildings within ROW after aerial photos might not be compensated
	Decreased theft from faster- moving lorries	Thatch houses in ROW might not be compensated
	Enhanced growth of urban centres	Inadequate vacation notice given before demolition of buildings and structures
	Compensation of property losses	Turkana land undervalued in comparison to land values elsewhere in Kenya
	Reduced road accidents	Locals might be excluded from construction jobs
	Economy will improve as more investors come to the area	If PAPs are relocated far distant from the road, they will be overlooked for food relief
	New and more jobs will be created	In the event of death of head of household, the family will not be compensated
	Emergency medical transport and care will be facilitated	Road accidents involving livestock crossings and fast- moving vehicles
Bridges will replace drifts that flood during the rains	Livestock watering points will not be replaced after road construction is complete	
Turkana Central	Employment opportunities will increase	Concern about fairness of tendering and final selection of construction contractor
	Increased tourism income from Lake Turkana and Lodwar Town	Excavations for road materials will not be reinstated and pose dangers to children and livestock from drowning

	Decreased reliance on food relief	Requests from communities for boreholes and cattle dips might be denied
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**Table 52. Perceptions of Benefits by PAPs**

Table 52		
Collective Perceptions of Benefits and Costs, MPLRI Project		
By Affected Sub County		
	Anticipated Benefits	Anticipated Costs
	Increased opportunities for interaction with other places and people in Kenya	Livestock feeding and movement will be compromised by the road
	Improved access to schools	Increased vehicle, pedestrian and livestock accidents
	If improvements to Kalawase, Lukakanyang and Kalobeyi drifts are completed, transportation and communication will be improved even during the rainy season	Loss of compensation because allotment letters have not been acquired
	Improved income by way of increased use of the Lodwar airport	Unfair payment of land rates backdated to 1992 to county council authorities
	Improved trade opportunities by way of increased fish exports from Lake Turkana	In the event of death of head of household, the family will not be compensated because they lack allotment letters
	Improved diets because fruits and vegetables will arrive to Lodwar before they are spoiled	

#### 6.4.1 PREFERENCES FOR RESETTLEMENT SITES

##### Relocation Preference

When asked about their relocation preferences, the majority of households (74.8 percent) prefer to be relocated on nearby land for several reasons: first, many PAPs generate their incomes from activities conducted near the road; second, they want to maintain existing social networks in familiar situations; and third, they want to remain near family graves. Slightly less than one in five surveyed households (19.8 percent) was undecided about their relocation preferences. Very few households (0.8 percent) indicated that they wanted to relocate to places far removed from their existing home places.

**Table 53. Relocation Preference**

Table 53		
Relocation Preferences		
By Frequency and Percentage		
Preferred Relocation	Preference Frequency	Preference Percentage
To location adjacent to current location	196	74.8
To location adjacent to family location	06	02.3
To location adjacent to neighbours' location	06	02.3

To location thus far undecided	52	19.8
To location unrelated to current location	02	0.80
TOTAL	262	100.0

### Compensation Preferences

When asked about the preferred compensation for demolished buildings, structures and/or assets, the clear majority of household respondents, irrespective of gender, indicated a preference for compensation with cash for the total loss.

**Table 54. Compensation Preference**

Table 54		
Compensation Preference		
By Preference Frequency and Percentage		
Compensation Preference	Preference Frequency	Preference Percentage
Cash for the total loss (to include land,	227	87.0

**Table 55. Perceptions of Benefits by PAPs**

Table 55		
Compensation Preference		
By Preference Frequency and Percentage		
Compensation Preference	Preference Frequency	Preference Percentage
Buildings, structures and all eligible assets)		
Plot of land (equal or better in productive capacity)	22	08.4
Both cash and land	12	04.6
TOTAL	261	100.0

### 6.4.2 Preferred Resettlement Services and Facilities

Respondents from surveyed households identified particular services and facilities to be included in the resettlement programme: the preferred amenities are domestic water supply; electricity; improved health facilities; income generating activities; and, new and improved accessible schools. These preferences are underpinned by OP 4.12—the selection of resettlement sites where equivalent or better livelihoods can be realized. The final resettlement implementation with provisions for these services and facilities is essential to positive outcomes in restoring incomes.

Local leaders and PAPs were pleased with the formation of compensation and grievance committees in all affected locations—doing so meant that the process would be transparent and open. However, they were concerned about project timelines, voicing their expectations that compensation and resettlement activities would be completed before project implementation commences.

**Table 56. Preferred Resettlement Services and Facilities**

Table 56	
Preferred Resettlement Services and Facilities	
By Preference Percentage	
Preferred Resettlement Services and Facilities	By Preference Percentage
Domestic water supply	21.2

Electricity	15.8
Improved health facilities	22.4
Income generating activities	21.8
New and improved accessible schools	17.5
Other	01.3

## 6.5 Findings of Consultations with PAPs - Second Round of Consultations

### 6.5.1 Anxiety, Fears, Concerns and Uncertainties:

- We do not know how much we are going to receive in compensation payment for loss of assets,
- What will happen if the cash compensation turns out to be inadequate to replace lost assets – let alone restoring lost income and livelihoods,
- We do not know the dates when compensation payments commence so that we can plan self-relocation,
- How will we know that our affected land and property is measured accurately and recorded or registered appropriately? Some affected property is not registered by oversight. What are the chances for correcting mistakes in registration of affected property?
- What if the impact of the road affects farmers beyond the often-mentioned 40 meters width?
- What will happen if some of the property registered for compensation goes missing during actual compensation? What if we eat from crops that are registered for compensation?
- Those of us who are of old ages, no matter how much money we receive in compensation, is not going to help us as we are unable to do much with it.
- I lost my husband and I am ill. Now, I am going to lose my house to the project.
- Who is going to put a roof over my head?

### 6.5.2 Preferences and Additional Demands

- We do not want “land for land” compensation, just cash compensation,
- We do not want to lose our kinship ties and social networks. If we receive timely and adequate compensation, we can relocate ourselves and reintegrate into existing communities,
- We need provision for transportation expenses during relocating our property,
- We demand that all PAPs are embraced in the various Food Security Programmes currently underway in the area,
- We demand that compensation payments are made as soon as possible,
- Please, commence the civil work as soon as possible,
- Those of us who use land given to us by our parents or inherited from them demand compensation payment for lost land, though the title of the land is in our parents’ names,
- We trust that all affected property are included and registered accurately,

- Perennial crops are intergenerational in nature. I don't think this fact has been understood and appreciated. Because, we, the current owners of property, are compensated for such losses. But, what about our children who would have depended on the same crops that the project destroys today?

#### 6.5.3 Expectations, Hopes, Aspirations and Needs:

- Given very poor availability of social service facilities in our area, we ask the government (project) to provide support to the construction and or maintenance of such facilities as public health, veterinary clinics, schools, potable water supply, electricity, and telecommunications,
- We elderly people expect to be provided by special assistance,
- Project affected persons should be given a special consideration in all available employment opportunities, both short-term and long-term, We hope and aspire to help ourselves through using compensation payments for useful and productive purposes such as building dwellings, opening retail shops and business, opening restaurants to serve the demand that might come with the project, engaging in agricultural goods trading, organize ourselves into groups and engage in services such as ground transport (vehicular) and grain milling.

#### 6.5.4 Appreciation and Positive Comments:

- The road component will open up opportunities and improve access to markets and services. We are rather lucky that the road cuts across our neighborhood,
- We agree on and pledge to observe the cut-off date as per the project request,

#### 6.5.5 Questions and Clarifications:

- As the farming season has already approached we need to know the verdict of affected land. Can we use the land until we receive compensation?
- What are the plans for family graves that will be affected?
- Can we use the affected farmland temporarily to grow annual crops?
- What about the indirect impact of the road component on farmers residing close to it? They will be affected adversely by dust, noise and rolling stones during civil works,
- Who are the people nominated to do the property valuation?
- What are the procedures put in place to effect compensation payments?

#### 6.5.6 Summary of Minutes of Meetings Held With PAPs at Different Locations

##### Table 57. Kainuk Consultations

##### **Kainuk Consultation Held on the 4/12/2014(Chief's office compound)**

The area chief introduced his team and introduced the consultants to the stakeholders. He appreciated the efforts made and encouraged the locals to accept the project as they were the ones to suffer.

##### **Concerns**

1. Locals were concerned of the indigenous trees that were to be destroyed during construction, as this would cause deforestation. The stretch from Lokichar to Kainuk has indigenous trees and the fodder tree, which is seeds and food the livestock.
2. They were happy the road would be constructed on so they would also not miss out on county revenue as most trucks were diverging to Uganda route due to the bad roads in Turkana.
3. The road would also add to more passengers' buses currently there is only one bus plying the route and thus causing congestion and heavy fares are levied on the passengers.
4. Turkana rely solely on food from Kitale and due to the bad roads traders at times get stranded on the roads due to heavy downpour and forced to throw away foods due to the overstay on the road side.
5. Insecurity along the roads and livestock raid is rampant especially from the neighboring Pokot
6. Increase of foreign employees and influx of immigrant over population will cause intermarriage, diseases HIV etc
7. Business links with Sudan and Kenya will be strengthened
8. KENHA should make sure the standard quality of the roads is the same as other counties.
9. Bridges should be constructed, as one may not reach their destination especially when it rains due to the broken and over stretched lagas.
10. KENHA to have a meeting with the PAPS before destruction and before being resettled.

#### **Table 58. Kakuma Consultations**

##### **Kakuma Consultation Meeting at the Chiefs camp on the 5/12/2014**

1. **Employment:** Most of the locals expressed their desire that employment opportunities to be reserved for them in order to create employment for the youth. They requested that the workforce should use technology transfer for subsequent maintenance and operations.
2. **Loss if income generating activities:** Locals felt they would be total loss for their businesses as Kakuma was a ne way street own and if they were to relocate then the whole town will be wiped out. They asked the project planners to relocate them close to the road so that they would not go far from their initial business centres.
3. **Compensation:** Locals requested for adequate time for relocation and timely compensation to enable them plan well.
4. Locals praised and have committed to embrace the road project, as it will bring development and benefits for the community in line with vision 2030.
5. **Land Market;** Project will trigger land market in the area; speculators will invade the area to capitalize on the new opportunity in land values.
6. Locals emphasized the need for the project to construct an overpass/fly overs and bridges across the highway and consider also the physically challenged people.

**Table 59. Napatet Consultations**

**Consultation Meeting at Napatet (Lodwar County) 2/12/2014**

**Introductions:**

The chief gave thanks to KENHA and the consultants for creating time to consult them and urged the locals to give out their views and opinion of the project. He also told the locals not to oppose the project and look at the good side of what it will benefit Turkana as a county.

**Main Concerns For The PAPs:**

1. Compensation: The locals said that they wish to be compensated early before the project starts and wish KENHA to reach out to everyone because there were some of them who were very illiterate and ignorant. The issue of land came up as Turkana's have communal land and they were wondering which criteria would be used to compensate them?
2. Duration of compensation and how it will be conducted because they did not want to be paid through their leaders (politicians). They asked for the requirements for compensation. Locals emphasized that the compensation should be conducted through their local chiefs because they were the ones who knew the area and the occupants of the lands affected by the project.
3. KENHA should split the tenders and award the preferred contractor to fast track the work as locals have been waiting for the road project for a very long time and now have no hope on any study being conducted on road projects.
4. Employment for contracts on road should be given to the locals and only expertise should be exempted. The wages should also be above the average and not below the living standards. Contractors to outsource laborers' within Turkana and not from Nairobi.
5. Loss of indigenous tress, locals felt that a comprehensive EIA should be done on the highway to avoid cutting of excessive trees without replacement, as this would cause desertification.
6. Health issues due to dust from roads and diseases contracted from the influx of foreign employees due to high increase of employment.
7. Social livelihood will be affected due to the relocation of PAPs
8. Locals emphasized if the quality of roads to be of quality as other counties as they had experienced that the roads constructed in Turkana were of poor quality.
9. Civic education to be conducted to avoid conflicts when the contractors start working on the roads.
10. Good inter-boundary relations with neighboring countries, business will flow and market access to all will be opened
11. Transport will be accessible and costs will be affordable
12. Social economy will be boosted -investors will be encouraged to invest in Turkana-Juba
13. Insecurity along the highway will be reduced

**Table 60. Lokichar Consultations**

**Lokichar Consultation Meeting at Check Point Market on 3/12/2014**

Meeting headed by chief of Lokichar Josephine Ekal and in attendance was Lokichar Check Point Business Group.

**Concerns:**

The locals were impressed that they were consulted and were happy with the road project and did not oppose although they had concerns over a few issues.

1. KENHA should construct a market at a strategic location that they would be able to get accessibility to market their products as this was their only source of income and majority of the traders were widows or orphans. They stated that they had registered the group and meetings regarding the relocation had been conducted several but they never agreed to the location as it was way too far from their usual business customers and the space was not enough for all the traders. They however requested KENHA to purchase a larger plot near the road to accommodate the larger group. It was clarified with the chief that there was market already constructed for the traders but they opposed it saying it was small and not strategic for their customers as their target was the travelers and trucks drivers. They however requested for a modern market location that would accommodate transportation and accessible roads to the market.
2. Traders also asked KENHA if they already had a place in mind that they wanted to relocate them and requested that they should be involved in the process.
3. What will be compensated, because the land where the traders were was communal land given to them by County for business?
4. Employment for the youth also came up and locals requested to be given priority
5. Locals emphasized on KENHA to have road signs, bumps and road marshals to avoid accidents.
6. Health issues as dust due to road construction will lead to diseases like TB, and other diseases caused by foreign employees i.e. HIV
7. Sanitation and sewer system to be constructed along the main market areas because this was a major problem with the lagas.
8. Civic education to be given to all the affected persons before being relocated.

**Table 61. Lokichoggio Consultations**

**Meeting held at DO's office in Lokichoggio on the 6/12/2014**

**Concerns:**

1. **Land issues:** locals and business community felt that the rates of land will go up and land owners already do not want to sell land as they await the road construction to start, so as to get better or higher payments for lands. They did mention that there was a lot of squatters building next to the road and wondered how the compensation will be conducted. What of those leasing the land, what of tenants? And land owners?
2. **Social livelihood:** Lokichoggio has been known to be a vibrant town and now with the road, social livelihood will change.
3. Community asset, locals asked if they will compensate just for their assets in cases where land was not theirs.

4. Water supply and sanitation, locals mentioned that they did not have any sewer system and water was a major issue in Turkana and asked if this would also be considered when the roads are being constructed.
5. Compensation: locals felt that they should be paid in full and not installments' as they wanted to prepare themselves early for relocation.



## **6.6 Findings of Consultations with Local Officials**

Several consultations were held with local officials with the view of informing them of the nature and scale of impacts, informing them of the roles and responsibilities in the project, and discussing viable options and strategies for income and livelihoods restoration.

## **6.7 Public Disclosure**

It should be emphasized from the outset that the project involves a multitude of stakeholders ranging from PAPs (who are the immediate-brunt-bearers) to the project developer, county and national governments through to financiers. Needless to argue that infrastructure projects that entail displacement of people usually attract the attention of various stakeholders and hence are often prone to criticism.

Rather, more important is the way how such criticisms, both constructive or otherwise, are handled or entertained and taken care of. Depending on the interests of the parties, all arguments in favor or against large infrastructure projects have several dimensions including constructive and destructive, national and international, personal and institutional, local and global. In other words, arguments and criticisms on mega projects may range from a narrow business or other interests to the more genuine and broader social, economic and environmental ones. Be that as it may, entertaining the views of all parties from all sides, angles and perspectives is naturally in the best interest of the project. In summary, it is crucially important for the project to encourage views and comments from all players and address them properly and adequately regardless of their sources, types and motives.

Constructive comments about the project are straightforward and are relatively easy to deal with. Equally important, if not more, are the views of those who might stand against the realization of the project. The underlying factors for view holder to take such a stand may vary widely. But, one thing is common, lack of sufficient information about the project including the nature and scale of its positive and negative impacts at different levels. If view holders are misinformed or are unable to obtain correct information, then they are forced to form their opinions on wrong premises such as rumors. This, in turn, leads to counterproductive arguments. Therefore, it is the responsibility of the project to provide all stakeholders at all levels to provide them with accurate and up-to-date information about its plans and operations.

Methods and modalities for public disclosure can take different forms depending on who and what is intended to be achieved. The bottom line, however, is the participation of all key players at all levels local, regional, national as well as international. Based on the nature and scale of the project, the following methods will be adopted the public disclosure exercise.

### **6.7.1 Disclosure Plan**

The project will use a variety of communication techniques to announce major project

milestones and decisions points, information about the project, its impact, and mitigation measures and these are discussed below.

### **6.7.2 Consultative Meetings upon Completion of the RAP preparation**

Stakeholders identified and consulted during the initial phase of the public consultation process would be called to the next phase of consultative meetings.

The purpose of the meetings will be to:

- Update them with new project information;
- Present the initial findings on the consultative meetings;
- Present the proposed community development initiatives.

The required information on project objectives, descriptions, and potential impacts will be shared with the stakeholders to make them aware about the project impacts, and the likely mitigation measures to be pursued and implemented. The participants will be encouraged to forward ideas, questions and comments to facilitate the implementation.

### **6.7.3 National and Regional Consultative Workshop**

Upon completion of preparation of RAP, the project will organize county consultative workshops to bring all key players together to express their views and concerns on the project and its impact and discuss the contents of the RAP and contribute to its finalization. The project will accomplish the following, among others, to host the consultative workshop successfully:

- Distribute copies of RAP and related documents to all stakeholders and encourage them to read and provide comments,
- Organize consultative meeting and present RAP, collect views and comments,
- Send a Team of professionals to PAPs and local officials in the project area to explain contents of RAP and solicit their views and concerns in the whole project process,
- Develop project promotional materials (flyers, posters or small publication) and distribute it the wider public,
- Prepare an expert panel of discussion,
- Finalize RAP and distribute copies to all stakeholders.

### **6.7.4 Documents for Disclosure**

The following documents prepared for project will be disclosed. These documents are considered to be the primary project documents, which form the basis for project evaluation from both social and environmental perspectives. The executive summary is written in English and will be translated in Amharic.

- Environmental and Social Impact Assessment (Main Report)
- Environmental and Social Management Plan
- Resettlement Action Plan

**6.7.5 Disclosure will be undertaken at the following points:**

- World Bank infoshop
- Kenya National Highways Authority website
- Ministry of Transport and Infrastructure website
- County Government of Turkana and West Pokot website

# CHAPTER SEVEN

## 7 VALUATION AND COMPENSATION

This is a core section of the RAP in which the framework for valuation and compensation of assets affected by the project are presented in detail. The chapter consists of four main sections: the first section summarizes the entitlement matrix and criteria for compensation, followed in the second section by descriptions of the principles and methods applied in the valuation of assets for compensation. Determination of rates of compensation for different types of assets and summary of aggregate costs of compensation are presented in the third and fourth sections respectively.

### 7.1 Entitlement Matrix and Eligibility Criteria

An entitlement matrix is a very important instrument in the implementation of RAP and it facilitates the smooth and timely disbursement of compensation and other benefits for those who are legally entitled to them. Specifying as clearly as possible those individuals and households who are entitled for compensation and other benefits (and the types of property for which they will be compensated for) and differentiating them from non-entitled persons, is crucial in at least two ways: first it helps to minimize errors of inclusion and exclusion (that is excluding those who are legally entitled and including those who are not legally entitled for compensation and benefits), and in this way helps to protect the implementing agency from false claims, costly litigation and delay in project implementation. Secondly, it serves as the overall framework for formulating the principles and methods for the valuation of assets.

### 7.2 Compensation for Loss of Crops

#### 7.2.1 Annual Crop

The followings procedures and methods are used to set vales for crop loss:

- The proportion of area harvested, along with the area covered by each crop types, is taken into account.
- Yield per unit area of land is set for each crops;
- Total crop production is calculated by multiplying yield per unit of land obtained and the area of land cropped by each crop types;
- Value of crops is computed by multiplying the total crop production by the current prices taken as a basis for valuation. The retail prices of crops, and other required outputs were also collected and reviewed from the weekly market of close major towns considered to be terminal markets.

### 7.3 Compensation for Loss of Perennial Crops

The displacement costs for the loss of fruit bearing trees, and perennial trees are computed on the basis of the level of the growth of the plant, which classification the crops into two: ripe and unripe.

The methods to compute the rates for both ripe and unripe crops have:

- The data on the number of fruit trees and perennial crops were collected from the project affected people themselves;
- Basic data on the agronomic characteristics of the plant, time required for plant maturity; manpower requirement for land preparation and planting; seedling rate per ha; costs of seedlings; and productivity per tree or per ha of land were collected from both the government offices and compared against the data referred on the Extension Manual for Fruits and Vegetable; (Ministry of Agriculture)
- The required costs for land improvement, (land leveling, terracing, and equipment) was computed on hectare of land basis. Then it is converted into costs per plant, by dividing the total cost against the total number of seedling planted on hectares of land;
- Data on prices of the different crops were collected from the local markets

Therefore, on the basis of the above data, the compensation rates are computed and the recommended cost to compensate ripe and unripe crops is shown below.

### 7.3.1 For ripe crops

- The average annual income for each fruit trees is calculated on the basis of the annual yield of the trees and the price in terms of pieces; and
- To those trees, which provides produces annually, the compensation cost is computed on the basis of tree characteristics and the 10 years benefit. However, for other trees forgone benefits are calculated on the bases of the production rate and the basis of the time required to give production;

### 7.3.2 For unripe crops

The compensation for unripe crops is calculated on the basis of the cost required to grow the plant and the cost of land improvement. Total tree values are provided in the following table.

**Table 62. Tree values, including statutory 15 Percent**

<b>Table 63</b>	
<b>Tree Values, including Statutory 15 Percent</b>	
<b>By Private (Surveyed Households) and Public (County and Municipal Authorities)</b>	
<b>Location of Project-Affected Trees</b>	<b>Total Value of Trees including Statutory 15 percent</b>
Private compounds (surveyed households)	106,911.00
Public (county or municipal authorities)	306,489.50
<b>GRAND TOTAL</b>	<b>413,400.50</b>

## 7.4 Compensation for Loss of Buildings and Other Structures

Replacement costs for the affected houses, and other structures were estimated on the basis of the replacement cost, taking into account market values for structures and materials, as well as labor costs. Therefore, the estimated replacement costs of the

houses and other associated structures are presented in Table 44 below.

## 7.4.1 Housing and Other Structures

**Table 63. Building Class**

<b>Table 64</b>		
<b>Building Class</b>		
<b>MPLRI Project-Affected Households</b>		
<b>Class</b>	<b>Frequency</b>	<b>Percent</b>
Type A	48	11.76
Type B	04	0.98
Type C	284	69.61
Type D	67	16.42
<b>Total</b>	408	□100.0 <sup>1</sup>

The values established for the 408 buildings affected by the project were determined applying the depreciated replacement cost.

**Table 65. Buildings, all Types**

<b>Table 65</b>		
<b>Buildings, All Types</b>		
<b>Total Value (Ksh)</b>		
<b>MPLRI Project-Affected Households</b>		
<b>Building Type</b>	<b>Total Number</b>	<b>Total Value (Ksh)</b>
A, B, C, D	408	64,802,391.50

## 7.4.2 Compensation for Graves

Throughout the project area, a total of 43 graves was acknowledged by the 280 polled households, all located within the family compound but only 2 located within the ROW.

**Table 66. Directly Affected gravesites within the Road Reserves**

<b>Table 66</b>				
<b>Directly Affected Gravesites within the Road Reserve</b>				
<b>By Compound Owner and Location</b>				
<b>Nearest Settlement</b>	<b>Name of Owner</b>	<b>Survey Identification Number</b>	<b>Details of Identified Grave(s)</b>	<b>Total Number of Directly Affected Graves</b>

Lochaang'ikamatak	Emmanuel Nanok	10038R, 10039R	There are four graves for both parents and two children: one child's grave is 2 m from the wall of the affected building; the others are 10 m from the affected building wall.	1
Lochoromoit	Daniel Juluk	12081R	The imperiled grave is 3 m from the back wall of the affected building.	1

Irrespective of the above listed graves, the remaining 41 graves, all associated with buildings, structures and other properties to be displaced and all in relatively close proximity to the road reserve, could be indirectly impacted by the road construction. Prior knowledge of their locations is important to the construction contractor in any activities—for example, movement of heavy machinery into and out of the road reserve or placement of materials stockpiles—that might damage or dislodge them. Their locations are tabulated below according to the settlement nearest the affected gravesites.

**Table 67. Indirectly Affected Gravesites**

<b>Table 67</b>	
<b>Indirectly Affected Gravesites</b>	
<b>Total N = 280</b>	
<b>Settlement Nearest Affected Gravesites</b>	<b>Number of Gravesites</b>
Marich Pass	---
Kainuk	07
Kalemng'orok	11
Lokichar	---
Kasuroi	01
Lochaang'ikamatak	05
Lochoromoit	06
Kimabur	05
Loturerei	02
Lodwar	04
<b>TOTAL</b>	<b>41</b>



## CHAPTER EIGHT

### 8 INCOME RESTORATION AND SOCIAL DEVELOPMENT PLAN

#### 8.1 Planning Approaches and Principles

This chapter consists of the plan for income restoration and social development for PAPs and communities affected by the project. The general objective of the plan is to enable PAPs not only to restore their income but also to improve their standard of living through a set of integrated strategies and assistance measures by the project-implementing agency.

Due to the acute shortage of resources especially land and the low income and poverty of the population, it is believed that the main benefits for PAPs will come not from compensation for asset losses but from the income restoration and social development programs. The plan has two components: the income restoration and improvement component, which directly targets PAPs and a community or social development component for communities as well as PAPs to be implemented for project, affected areas.

In formulating the income restoration and community development plan presented in detail below we have taken into account a number of basic principles including the following major ones:

- Analysis of economic, financial, socio-cultural feasibility in proposing strategies and income generating schemes as well as providing different options and choices;
- Development potentials and opportunities in the project affected areas, including various government development activities such as agricultural extension packages, food security program, micro and small enterprises development, Micro- Finance services, etc.;
- National and international policy, legal, and institutional frameworks, guidelines and best practices on involuntary resettlement, rehabilitation and income restoration of PAPs, including the cardinal principle that RAP should incorporate not only compensation for lost assets, and the restoration of income to pre-existing levels, but also should aim at the improvement of the livelihood and wellbeing of PAPs;
- The objectives conditions of different categories of PAPs, in terms severity of impact on assets, their potentials and needs;
- The principle of partnership and coordination in implementation, that is, while the implementing agency of the project will take the lead role in terms of funding and coordinating the income restoration and community development measures,

- implementation will be based on partnership with various government agencies, NGOs, community based organizations and PAPs.
- The views and concerns of PAPs and local government officials elicited through public consultations;

## **8.2 Income Restoration and Improvement Plan for PAPs**

Generally speaking there are two major approaches for income restoration and improvement associated with resettlement action plans: (a) Land-Based Approach and (b) Non-Land Based approach. However, the approaches are not mutually exclusive and an income restoration and improvement plan can include both types depending, among other things, on the nature and severity of impact of the project and the objective needs and capacities of the PAPs.

One of the cardinal principles of income restoration and rehabilitation in resettlement programs is that if the livelihood of PAPs is land-based (which means mainly agriculture and pastoralist livelihoods) then income restoration strategies should also be land based.

The basic assumption behind the land-based approach is that land-for-land compensation will be implemented for those PAPs who have lost all land or whose remaining land is economically unviable. However, in practice there are a number of factors, which constrain the application of this approach and apply also in the case of this project. These are: (a) severe shortage of land to implement land-for-land compensation (land substitution); (b) the preferences of PAPs for cash-for-land compensation.

- Shortage of Arable Land: due to acute shortage of farmland in most-project affected areas, the possibility of land-for-land compensation was found to be minimal, only in few places is there a possibility of land-for-land compensation. This has been established through the extensive public consultation with local governments and the PAPs.
- Preferences of PAPs: Partly reflecting the above mentioned reality (the shortage of land) many PAPs have expressed their preferences for cash-for-land, instead of land-for-land compensation. This has been established through individual interviews of PAPs conducted as part of the census and socio-economic survey.

Two general categories have been adopted in formulating the detailed income restoration strategies and measures below. However it is important to note two points: first the two approaches are not mutually exclusive: for example although we have said that for those PAPs whose loss of land is total or very severe the main approach would be non land or non-agriculture based approach, it does not mean these PAPs can not be assisted to pursue for example livestock production schemes (such livestock fattening, dairy, poultry and beehives). Similarly, those PAPs with remaining viable land holdings will not necessarily be excluded from non-agricultural income generating strategies. The main reason for this is that it reflects existing conditions and processes of diversification of livelihood and sources of income.

### **8.3 Non-Farm Income Restoration Strategies**

Although agriculture is the main source of income and subsistence for the great majority of PAPs, there is also some degree of livelihood diversification. Many project affected households derive a relatively significant proportion of income (up to 25 % on the average) from different types of non-farm income generating activities mainly consisting of small-scale trade, artisan and handicrafts, wage labor, the collection and sale of firewood, charcoal and grass, etc. This means that there already exists some degree of experience among the PAPs in non-farm activities on which the non-farm component of our income restoration and improvement can build on.

However, it should be noted that the degree of engagement in non-farm activities (and hence and the related knowledge and experience) vary from household to household and from locality to locality. The non-farm income restoration measures will target the following: (a) PAPs with previous experience with non-farm activities; (b) PAPs with total or severe loss of farmland and other assets (as a result will be unable to pursue agriculture-based income restoration activities). The non-farm component consists of two sub-components: (a) “traditional” or existing types of non-farm activities to be supported as part of income restoration plan (b) Employment opportunities created by the project and its component activities.

### **8.4 Non-Farm Income Restoration Activities**

The following types of non-farm income generating activities will be supported in various ways and significant numbers of PAPs will participate in them: excluding employment opportunities in the project, the total number of PAPs who will benefit from non-farm income restoration activities will be 170.

### **8.5 Small-Scale Trade**

Small-scale trade is one of the most widespread types of non-farm income generating activity in the project area. Many PAPs are already familiar with and have some experience in this field of activity. Small-scale trade basically involves the buying and selling of goods in local and regional markets (e.g. crops, livestock and livestock products, consumer goods, etc.).

### **8.6 Small Businesses and Services**

In the rural areas of the project, non-farm businesses and services are very limited and underdeveloped. There are some small rural market centers where limited number and types of businesses and services exist. The project activities, the construction of the new road passing through densely populated areas will create more opportunities for the emergence and growth of towns and market centers in the project area. This will stimulate the growth of non-farm business and service activities. It is important to ensure that PAPs share from these opportunities. Accordingly, as one element of the income restoration and improvement strategy selected number of PAPs will be supported in various ways to start or strengthen small business and service enterprises such as: retail

shops, butcheries, tailoring, hotel, tea and coffee houses, production and sale of local drinks and food etc.

Key Inputs and Services:

- Access to credit services
- Skill training
- Training in micro-business management
- Market access and market information

Main Partner Agencies/Institutions:

- Micro-Finance Institutions
- Micro and Small Scale Enterprises Development agencies
- Cooperative Promotion Offices
- Food Security Offices

## **8.7 Potential Opportunities for Non-farm Income Restoration**

Lack of access to suitable formal credit, lack of access to markets (due to lack of infrastructure and low demand for products), low level of knowledge and skills in non-farm enterprises management, and low returns and profits from such activities are among the major constraints which hamper poor households from engaging in non-farm income generating activities.

However, in recent years micro-finance institutions (MFIs) have started playing key role in alleviating these major barriers and have accumulated a great deal of experience in organizing groups, in selecting and appraising potential income generating activities, in providing training and advice on marketing and micro enterprise management. As noted above, the implementing agency will contract the services of a micro finance institution for the credits and saving aspects of all income restoration and improvement components including the non-farm component.

In addition to MFIs, there are micro and small-scale enterprises promotion agencies and offices at various levels with mandates to support the development of non-farm small-scale enterprises in various ways (training and technical support, facilitating linkages with markets, etc). Such offices in the project-affected areas will actively participate in the non-farm income restoration activities.

The implementation of the project and its component activities will also provide opportunities, which will stimulate the growth of non-farm income activities in the main project affected areas in various ways including:

- Improved access to transport services and facilitate travel to towns and markets which are critical for the development of nonfarm enterprises;
- Small rural market centers are expected to emerge along the road and existing centers will grow further and these centers will provide opportunities for PAPs

and other households to start or expand non-farm income generating activities;

## **8.8 Project Related Employment Opportunities**

The project's construction activities associated are expected to generate lot of jobs and employment opportunities. During public consultations with PAPs and communities and local government one of the main expected benefits of the project repeatedly raised was precisely the creation of employment opportunities for local people and PAPs.

Accordingly, as part of income restoration and improvement plan it is important to ensure that PAPs will benefit from project related employment opportunities on priority basis. This consists of the following two types of employment opportunities:

- Temporary employment in the form of unskilled and semi-skilled wage labor in construction activities;
- Limited number of permanent employment in the temporary construction camp (in positions such as guards, janitors, messengers, etc)

### **8.8.1 Key Approaches and Procedures:**

- The implementing agency should enter into a binding agreement with KENHA contractors to provide employment opportunities for PAPs and their household members on priority basis for unskilled and semi-skilled work in construction activities;
- If eligible heads of project-affected households cannot participate in construction work for various reasons, other family members should be able to replace them if the income from such employment supports the household as a whole;
- Resettlement Committees (RCs) in cooperation with the implementing agency will prepare a list of eligible households and inform them in advance about the opportunity and communicate with contractors.

### **8.8.2 Special Assistance Measures for Vulnerable Groups**

Homelessness, landlessness, malnutrition and food insecurity, increased morbidity and mortality, interruption of children's schooling are some of the major risks associated with involuntary displacement and resettlement. Vulnerable groups are specially exposed to these risks of impoverishment and destitution. Special assistance measures are, therefore, necessary to cushion vulnerable groups from these risks. The special assistance measures do not substitute compensation and other income restoration measures to which vulnerable groups are entitled to like all other PAPs. In this regard the most important point to note is that for the very poor and vulnerable groups of PAPs the benefits from compensation will be very limited because their assets are very small to begin with and it will take time before the benefits from income restoration measures are realized, hence the need for temporary safety net measures.

### **8.8.3 Eligibility for Special Assistance:**

The types of potentially vulnerable groups identified based on the census data are: female-headed households (FHHs), elderly heads of households, and households headed by persons with disability. In addition we have to consider and include severely affected

and very poor households, which may or may not overlap with the vulnerable groups identified above;

The types of special assistance measures for vulnerable groups include: food security assistance, health assistances, education assistance (for children) and additional relocation assistance (e.g. assistance for construction of houses for those vulnerable PAPs whose houses will be affected);

There is no a priori assumption that all individuals and households in the vulnerable groups are necessarily poor and vulnerable and the categories only indicate potential vulnerability;

Accordingly, during the implementation of the RAP, KENHA officers and local resettlement committees will verify conditions of vulnerability on the ground case-by-case for actual targeting purposes and will include for special assistance measures very poor and severely affected households, which may not fall under the above categories.

## **8.9 Community and Social Development Plan and Strategies**

In the first section of this chapter we have presented the income restoration plans and strategies for the PAPs who are directly affected by the project in terms of loss of various types of assets and property. These effects require commensurate mitigation, compensation and social development measures. Accordingly, in this section we describe the mitigation, compensation and social development measures and strategies that will be taken as part of the implementation of the RAP.

### **8.9.1 Clean Water Supply**

Access to clean water supply is one of the major problems that PAPs and other households face in most project affected areas. This is one of the major causes of illness among children and adults and a burden on women and girls who carry the main burden of fetching water from long distances. Accordingly, as one of the important components of the social development plan, various suitable clean water supply schemes (bore-holes, spring development, etc. depending on local circumstances) will be implemented in those project-affected areas, which lack clean water supply especially along the highways.

## CHAPTER NINE

### 9 INSTITUTIONAL FRAMEWORK FOR IMPLEMENTATION OF THE RAP

The institutional framework for the implementation of the RAP is presented in this chapter. The effective and successful implementation of the RAP ultimately depends upon issues related to the institutional and organizational arrangements made for its implementation. Experience shows that even well designed RAPs (and other similar projects) fail to achieve their objectives mainly because of inadequate institutional arrangements for their implementation. Apart from designing a logical and workable institutional design on paper, the following are some of the most important considerations pertaining to institutional framework for an effective implementation of the RAP:

- Assessment of the organizational and institutional capacities of the main implementing agency of the project (KENHA) and its various departments and units) and its previous experiences in implementing similar resettlement programs
- Effective coordination of the activities and inputs of the various agencies and institutions to be involved in the resettlement activities.
- Full commitment on the part of the implementing agency in terms of establishing the necessary institutional arrangements and providing adequate incentives and resources (budget, manpower, etc);
- In designing the institutional framework for the implementation of the RAP we have taken into account additional pertinent issues such as:
- Specifying as clearly as possible the various agencies and institutions, which will participate in the implementation of the RAP together with their responsibilities, decision making authority and resources;
- The number of PAPs, and the level of impact of the project on various types of assets and property (land, housing and other structures, perennial crops and trees) and hence the degree of organizational and institutional inputs required for land acquisition and compensation, relocation, income restoration and social development activities included in the RAP. KENHA will be the direct implementer of the RAP, and for this purpose
  - The main responsible units within KENHA, namely the Environmental and Social Interest Unit will supervise the direct and day to day execution of the activities of the RAP, and
  - The RAP will be implemented in partnership with various relevant governmental, non governmental, and community organizations and institutions at federal, regional and local levels. This is, in a nutshell, the basic institutional framework, which is presented in more detail in this chapter.

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.

### **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.

### **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

### **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

### **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



## **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.

## **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.

## **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.

## **9.1 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.

### 9.1.1 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.

#### **9.1.1.1 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.

## 9.2 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.

### 9.2.1 Institutional Roles in Compensation

#### 9.2.1.1 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*

### **9.2.1.2 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.*

### 9.2.1.3 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.

## CHAPTER TEN

### 10 GRIEVANCE MANAGEMENT & REDRESS

The implementation of involuntary resettlement is a complex process which can involve conflicts, disagreements and grievances on the part of PAPs and other stakeholders, mainly because it involves the expropriation and compensation of land and other assets, the demolition of houses and the relocation of families, etc. Unless an effective grievance redress mechanism is put in place from the beginning, the timely implementation of the project can be jeopardized.

The most important step in conflict resolution is conflict avoidance, and the consultative and participatory nature of decision making under the implementation of this RAP is aimed at reducing the occurrence of disagreements and conflicting positions. In instances where disagreements do occur, it is similarly important that they are resolved quickly before positions harden and the conflict escalates. Different approaches may be required according to the level that any conflict has reached, while at the same time, recognizing that the earlier a potential conflict is recognized and dealt with, the higher the chance of a successful outcome.

The grievance mechanism provides affected parties with a mechanism to express any issues and problems that they may have with the compensation and resettlement process for the Project in a way, which is free of cost and without retribution. Affected parties will also have ultimate recourse to the courts in accordance with the provisions of Kenyan law.

#### 10.1 Anticipated Types of Grievances

In the context of the Project, grievances could arise from: (list is illustrative only)

- Misidentification of owner/occupier of eligible property and assets;
- Errors in asset assessments;
- Disputes over plot limits, either between the affected person and the Project, or between two neighbors;
- Complaints about entitlement policy of the project;
- Disagreement of asset valuation;
- Disagreement on entitlement and ownership;
- Disputed ownership of businesses (for example if the owner and the operator are different persons);
- In the case of Vulnerable and Marginalized Groups, disputes about free, prior and informed consultation, adverse impacts, culturally appropriate benefit-sharing, protection of traditional rights related to natural resources management and land tenure;
- Disagreement of time and manner of compensation.



## 10.2 Management Mechanism

### 10.2.1 General Principles and Key Aspects

The Project will put in place an extra-judicial mechanism for the management of grievances and disputes, based on explanation and on 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.

The mechanism will be based on the following principles:

- Each affected person will have easy access to deliver grievances and complaints;
- Grievances can be submitted orally (and will be recorded) or in written form;
- Any grievance will be registered, acknowledged receipt of, and tracked until it is closed;
- The grievance management arrangement will include two tiers of extra-judicial, amicable review and settlement, with the first one internal to KENHA in cooperation with the local resettlement committee (village level), and the second one with involvement of external parties;
- The third tier of the mechanism is the judicial system, for those grievances that cannot be resolved; the overall objective is to avoid resorting to Justice for as many grievances as possible.

Key aspects of the grievance mechanism are:

- The public and especially PAPs need to be informed about the grievance mechanism and how they can make use of this process. The public will be informed via RAP disclosure process and through community meetings conducted by KENHA in cooperation with the local resettlement committees:
- Grievances will be recorded by using a Grievance Form (in local language, also available in English). Grievance Forms are available for recording complaints and will contain details regarding the grievance as well as the name and address of the applicant, application date, type of application and the name of the persons receiving the grievance. The forms will be logged in a register where they will be tracked through to a suitable resolution.
- KENHA will maintain a digital grievance database, containing the logs and records of all grievances received, with an indication of the respective status of a grievance (i.e. resolved, not resolved, pending. . .)
- Resolution options will be developed through unilateral proposal, bilateral discussion and/or third party mediation. If a complaint is not legitimate the case will be closed without agreement with the complainant. Any response will be communicated clearly either orally or in writing, and a grievance case will only be closed when an agreement with the complainant is reached.

- Affected people will be offered access to third party legal advice, through a qualified lawyer a regular base; legal advice will be at no costs; information on the possibility of access to legal advice will be communicated to the affected people;

### **10.2.2 Grievance Registration and Monitoring**

The grievance mechanism shall be accessible to all affected parties, including vulnerable people. Hence, it is of key importance that grievances can be submitted on the village level.

Grievance registration will be possible:

- At the village level, registration through the resettlement committees;
- At the PMT Community Liaison Office, to be established at the Project site;

Grievance registration will be possible as of the commencement of compensation and resettlement activities. For each grievance, a grievance file will be opened, containing:

- Grievance form (recording complaints, details regarding the grievance, name and address of the applicant, application date, type of application and the name of the persons receiving the grievance);
- Receipt with acknowledgement of registration, to be handed back to the complainant;
- Grievance monitoring sheet (actions taken, corrective measures);
- Closure sheet, copy of which will be handed to the complainant after he/she has agreed to the resolution and signed off.

Grievances will be registered within 7 days of receipt and a response will be provided to the aggrieved party in 30 days or less.

Closure of a grievance does not automatically mean that the complainant is satisfied with the action taken (i.e. in cases where a complaint is not justified). Closure means that the complainant agrees that action has been taken by KENHA to address the grievance without being necessarily satisfied with the outcome.

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<sup>61</sup> or high court that may delay the implementation of project. Appeals to the court will only be occasioned if the grievance procedure fails to provide a result.

#### ***10.2.2.1 Village level in Cooperation with KENHA***

In practice, in similar compensation and resettlement activities, grievances arise from misunderstandings of the Project policy, or result from conflicts between neighbors, which can usually be solved through adequate mediation using customary rules or local

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<sup>61</sup> This is court deals with resettlement and land disputes

administration at the lowest level.

Furthermore, grievances are expected to arise in the context of construction activities. For this reason, the cooperation with the construction contractor's grievance management – and community liaison staff is of key importance (see ESMP). Grievances related to construction should be resolved through cooperation of KENHA and the construction contractors staff in charge for grievances. During construction, reports should be issued to senior management KENHA that highlight grievances with potential to affect the construction schedule. These reports should include grievances where resolution is pending for long periods.

Aggrieved people will have the opportunity to submit their grievances at the village level. This setting provides maximum accessibility to the grievance mechanism for all affected people and the possibility to resolve grievances in a practical and direct manner.

Local resettlement committees/village leaders as members of the resettlement committees will record grievances in oral or written form. It is expected that a large part of grievances can be resolved directly through explanation and information to the claimant. Grievances, which were not resolved on the village level, will be reviewed. Village Resettlement Committees will perform the reviews, typically with the following steps:

- Review of existing relevant documentation on the individual case (household issues, potential plot disputes, initial measurements and counts, etc...); construction related disturbance-or other issue
- Review of disputed properties, disputed boundaries, or property characteristics in the field, as applicable, and hearing of interested parties (the complainant(s) and third parties (resettlement committee members);
- Agreement on proposed resolution within the grievance management team and the local resettlement committee/village leader; representative of construction contractor
- Response to complainant.

For these cases, the grievance management team will cooperate with representatives of the local resettlement committees and with representatives of the construction contractor and will meet directly with the complainant in order to provide in depth explanations and if necessary, combine the explanation with a field visit to the disputed area/ the location related to a construction related grievance.

The grievance management team will:

- Maintain, check and file the registered grievances and log all grievances in a central database of grievances at village level;
- Ensure that grievances are acknowledged receipt of in the agreed timeframe (7 days);

- Collect files of grievances submitted at local levels on a regular basis (twice a month) to make sure that all grievances are dealt with in a timely manner; check that receipts for grievance registration were issued by the local levels (resettlement committees, cell and ward administrations)
- Make sure that local authorities and Village Resettlement Committees are duly consulted when reviewing the grievance; construction contractors representatives will be consulted when applicable
- Make sure that closure letters proposing a resolution to the complainant are timely sent to the complainant and acknowledged receipt of;
- Ensure that all steps of grievance management are properly documented.

The village level grievance redress committee will include

1. One Village Elder from affected village
2. Chief and Assistant Chief of Area
3. County Ward Administrator
4. Youth representative
5. Women representative
6. Vulnerable group representative

#### ***10.2.2.2 Mediation Committee (Sub County)***

The second tier aims at processing grievances that the first tier is unable to resolve, and coming up with solutions, which if agreed will be binding to both the implementing agency and the complainant(s). The objective is to avoid resorting to Justice and try to reach amicable settlements wherever possible. No grievance will be considered by the second tier unless it has already been reviewed by the first tier and the resolution proposed by the committee was not acceptable to the complainant.

The second tier of grievance management shall be based on a Mediation Committee established at sub County level, which will include:

- One representative of the Administration;-National Government
- One representative of Sub County Administration; - County Government
- Sub County Land Officer
- One representative of the 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.

The Mediation Committee will meet as needed, depending on the inflow of registered complaints and disputes. Minutes of meetings, including proposed resolution arrangements, records of decisions, agreements reached would be prepared.

#### ***10.2.2.3 Third Level: Resort to Justice***

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).

### 10.2.3 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. However, even though NLC has been constituted it is not yet actively engaged in resettlement issues because it has not received the desired staffing levels and work force and it is overwhelmed by the magnitude of land related issues and would not be in a position to execute its duties as required by law expeditiously for the moment.

The **Figure 4** below provides an overview on the grievance management mechanism.

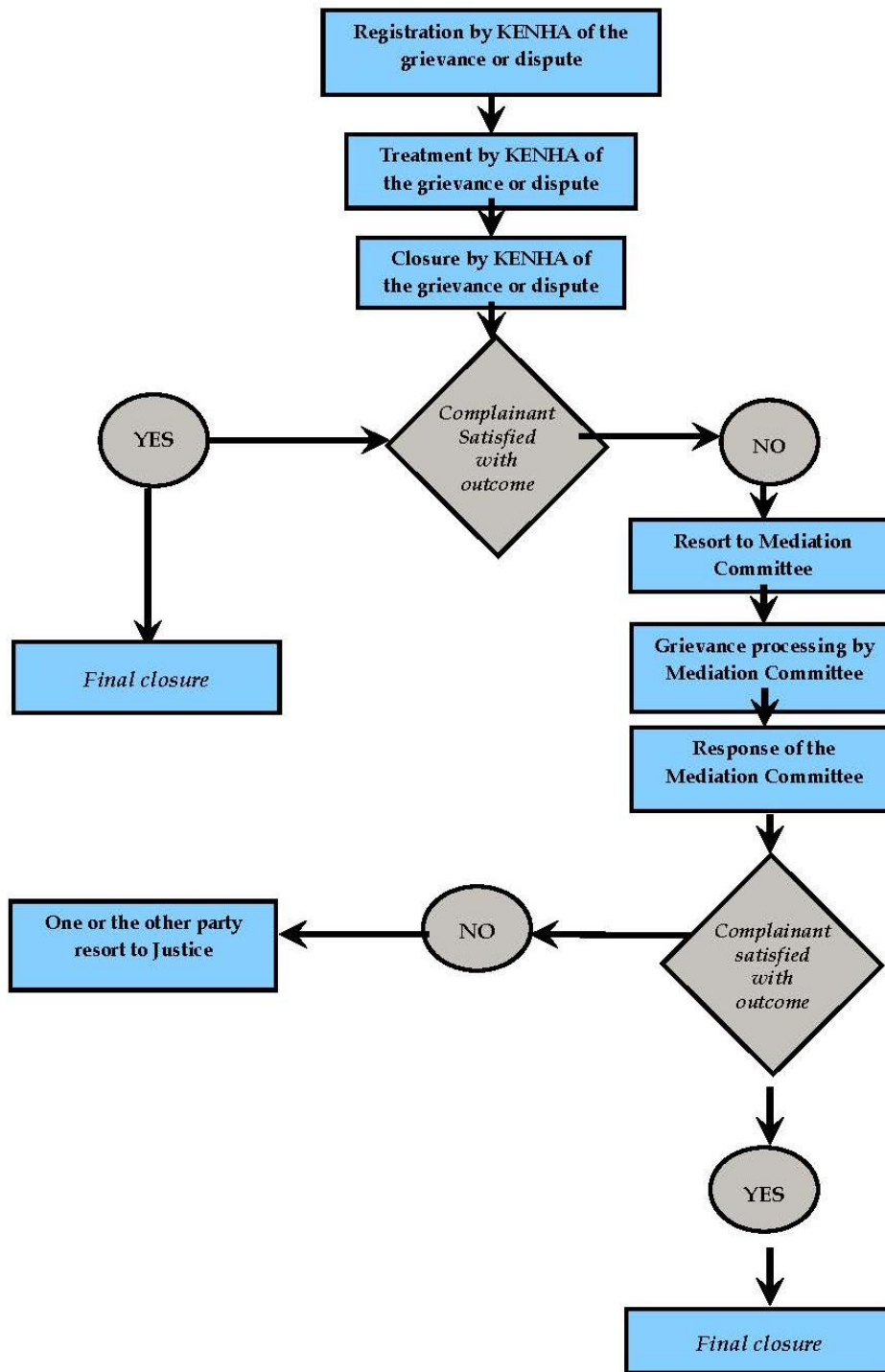


Figure 4 Grievance /Dispute Management Mechanism

### 10.3 Capacity Building for Implementing Institutions

As noted earlier, KENHA has previously implemented RAPs and therefore it has a great deal of accumulated experience in the field. This is a major and positive factor, which

will also contribute to the effective implementation of the RAP, and it indicates that KENHA has some accumulated institutional capacity in the field. However, KENHA has to further strengthen its capacity in the field of involuntary resettlement and implementation of RAPs. More specifically, KENHA will undertake various institutional capacity building measures for the implementation the RAP.

Within KENHA the social interest department will implement the RAP by establishing and delegating their function to the RIU (to be established for the specific purpose of implementing the RAP). In terms of practical implementation, therefore, within KENHA, the focus regarding capacity building should be on the key implementers namely.

#### **10.4 Documentation and Data Base System**

The implementation of the RAP, involves a great deal of transactions (for example related to payments of compensation for PAPs for different types of assets). In addition a lot of data and information will be generated as part of the records of the implementation of the RAP and from the monitoring, review and evaluation processes;

These enormous amounts of data have to be systematically recorded, stored, processed and reported. For this purpose, the creation of a systematic documentation and data base system is essential and will be the first task to be undertaken before implementation starts;

Various types of forms and documentation procedures will be needed for recording and reporting the various transactions and activities related to the RAP (e.g. compensation and land acquisition agreements, grievance filling forms, monitoring and review formats, etc.) and these should be designed and prepared in advance as part of the documentation and data base system of the RAP.

#### **10.5 Training for Resettlement Staff:**

The following types of training will be provided to the staff

- Training on involuntary displacement and resettlement and the national and international policy, legal and institutional frameworks and guidelines related to involuntary resettlement;
- Training on project cycle management: Project formulation, implementation, monitoring and evaluation, with particular emphasis on RAP cycle including implementation of land acquisition and compensation, relocation, income restoration, and social development programs and projects;
- Training on documentation and data base management

## CHAPTER ELEVEN

### 11 MONITORING, REVIEW AND EVALUATION FRAMEWORK

Monitoring, review and evaluation are essential aspects of any development plan, program and project. Their purpose and value is well known and does not require detailed explanation here. It involves periodic checking to ascertain whether activities are carried out according to the plan. It provides the necessary feedback for project management to keep the programme on schedule.

The monitoring, review and evaluation plan for the implementation of the RAP is presented in this chapter. The framework presented below provides brief description focusing on aspects such as: the purposes, indicators, sources of information and reporting procedures, and responsible bodies for monitoring, review and evaluation of the RAP.

#### 11.1 Internal Performance Monitoring

There are different types of monitoring (e.g. performance versus impact monitoring, internal versus external monitoring). The main type of monitoring to be adopted for the purpose of the RAP will be internal performance monitoring (IPM). Accordingly the implementing agency and the main units and institutions charged with the implementation of the RAP will undertake continuous and systematic IPM of the RAP. The main issues and points for the application of IPM for the implementation of the RAP are outlined below.

#### 11.2 Nature and Purpose of IPM

The nature and purpose of internal performance monitoring include the followings:

- An effective and functioning IPM depends on a continuous two-way flow of information (and related decisions and actions). Hence an efficient system for measuring, recording and reporting data and information is vital for IPM and that is why we have emphasized the importance of establishing an effective documentation and data base system as part of the institutional capacity building measures for the implementation of the RAP
- IPM has internal management function in the sense that its main purpose is to serve as a tool for the institutions involved in the implementation of the RAP to have up-to-date information to enable them to track and assess performance measured against the targets set in the RAP and to take corrective actions in case of problems and deviations from targets. IPM largely focuses on input-output performance measured against the financial and physical input-output targets set in the RAP document.



- IPM is a continuous process lasting throughout the entire life period of implementation of the RAP and covering all components and activities of the RAP, hence the allocation of resources for monitoring as well as review and evaluation should take into account these long-lasting and intensive nature of the set of activities
- The basic source of reference for undertaking IPM is the RAP document, which provides the baseline for the implementation of the RAP including the types of components and activities to be undertaken, the financial and physical targets to be achieved in relation to the time table and schedule established in the RAP document. It is for this reason that a thorough familiarity of resettlement staff and other stakeholders with the contents of the RAP is essential.

### **11.3 IPM Approach and Methodology**

The general approach for internal monitoring will include the following:

- Maintain and regularly update a database for each household with baseline socioeconomic data, inventory of loss data, values of losses, registration of property and assets, entitlements due, compensation paid, resettlement entitlements delivered, rehabilitation measures delivered, maintain and regularly update a database of all consultations with affected people, documenting locations, dates, participants, issues discussed, concerns of affected people, actions taken to address concerns, and feedback to affected people on how their concern are being addressed;
- Maintain and regularly update a database of all grievances made by affected people, including date of grievance, name of aggrieved, nature of the grievance, how and when addressed at each level of the grievance mechanism;
- Monitor the use entitlements by affected people; assess the impact and appropriateness of entitlements and the method of their delivery on affected people, in terms of meeting the resettlement objectives;
- Monitor the development, delivery and impact of the livelihood programmes;
- Recommend to management appropriate adjustment to make the resettlement and livelihood restoration program more attractive.
- All data will be disaggregated by gender and ethnicity. The internal monitoring database shall be made available to the independent institution/body.

### **11.4 Monitoring Programs and Indicators**

To measure the outcomes and effects of the RAP to the project affected population, important project monitoring programs on different aspects are designed and will include:

#### 11.4.1 Day-to-day process monitoring

The day-to-day process monitoring will be conducted to:

- Verify that the baseline information of all potentially affected persons has been carried out;
- All potential losses inventoried and valued, the ownership and use of land and assets registered, and the provision of compensation, resettlement and rehabilitation entitlements has been carried out in accordance with the resettlement policy and approved plan;
- Verify that consultation activities are being implemented effectively;
- Verify that the grievance mechanism is being implemented effectively; identify any problems with the implementation and report those back to management; and
- Verify that funds for implementation are provided by the project management in a timely manner and its amounts sufficient for their purposes, and that such funds are used in according with the plan.

#### 11.4.2 Day-to-day activity-level monitoring

This internal monitoring will be conducted by KENHA and it will focus on the physical progress of resettlement implementation and implementation of livelihood restoration program against the schedule in the approved plan, and will monitor:

- Compensation payment;
- Consultation with PAPs;
- Delivery of replacement land, replacement of social services, delivery of agricultural extension assistance;
- Grievance made and resolved; and
- Identification of replacement land for alternative livelihoods, development of alternative livelihoods, etc.
- Infrastructure development;
- Preparation and disclosure of updated resettlement and livelihood restoration plans and approval;
- The progress of inventory of losses;

#### 11.4.3 Periodic Socio-Economic Monitoring

The periodic socio-economic monitoring will be also undertaken to measure the progress being made towards restoring or improving income levels and living standards, for poor and vulnerable households; besides, reporting to management on any problems encountered during implementation will take place so that necessary action can be taken in a timely manner.

##### ***11.4.3.1 Project Impacts on Households***

This will be indirectly measured and monitored by the conduct of socio-economic and health and nutrition questionnaire based surveys. The main aims of baseline socioeconomic monitoring surveys will be to:

- a) Identify any socio-economic change in the project-affected areas, whether

- positive or negative;
- b) Measure the level of poverty; and
- c) Measure the distribution of wealth and resources to ensure that the compensation program does not result in inequitable use or holdings of resources.

If there are no improvements following compensation and livelihood restoration programs, new measures will be introduced to improve the negative changes.

#### **11.4.4 Monitoring, Indicators, Sources of Data and Information**

IPM applies to all components and activities and will last through out the period of implementation of the RAP. Due to this it would be rather cumbersome to list all activities and indicators here. Leaving aside preparatory activities, we indicate below examples of activities, which will be the focus of IPM and various related issues:

- Disbursement of compensation for different types of assets;
- Disbursement of relocation/transfer assistance and special assistance for vulnerable groups;
- Effectiveness and timing of public participation and consultation activities.
- Land acquisition against targets and vis-à-vis construction activities;
- Sufficiency and effectiveness of the assistance provided to vulnerable groups;
- The number and types of community and social development projects initiated and effectiveness of these projects;
- The number and types of grievances lodged by PAPs and the related responses and decisions on them;
- The number and types of income restoration projects and activities initiated and effectiveness of these projects;
- The problems and challenges faced in the process of implementation of the above mentioned and other resettlement activities; and

#### **11.4.5 Responsible Bodies and Reporting Procedures**

The responsible bodies and reporting procedures are outlined below:

- The main sources of data and information for IPM will be internal or in-house documents and records generated from the implementation of the RAP (for example records on compensation for assets) as well as the day to day observations by resettlement field staff;
- The main responsible bodies for IPM will be the social interest department of KENHA (the monitoring, review and evaluation officer of the RAP in particular). Monthly performance monitoring reports will be prepared.
- The reports will serve various purposes including: (a) will be used to track and assess performance and take corrective measures in case of problems; (b) will be used to brief higher authorities, including the KENHA and the Bank; (c) will serve as one source of data and information for presentations during the periodic progress review meetings.

#### **11.4.6 RAP External Evaluation**

An external evaluation of the RAP will be undertaken at the end of implementation. As its name suggests, the terminal or completion evaluation will be undertaken by an external agency, preferably an independent national or international consultant. The terminal external evaluation will be general and comprehensive in nature in that its main purpose is to assess the outcomes and effects of the RAP in relation to the objectives and aims. Accordingly, the focus of the evaluation will be on the impact of the project on PAPs and the outcomes of the mitigation, income restoration, and social development programs and projects on the income, livelihood and well-being of PAPs and local communities in the project affected areas.

#### **11.4.7 Objectives of External Evaluation**

In brief the following will be the focus, purpose/objectives, and methodology of the evaluation:

- Assess whether the aims and objectives of the RAP were achieved or not in terms of the actual implementation of the components and activities of the RAP including: the timely and full payment of compensation, the attainment of the objectives of the income restoration and community development projects and interventions in mitigating the adverse impact of the project and in the improvement of the income and well being of the PAPs and communities in the project affected;
- Identify and assess the main lessons learned to inform the planning and implementation of similar projects in the future by KENHA and other development agencies;
- Identify and document the problems and challenges encountered in the process of implementation of the RAP;
- Verify whether the outcomes of the RAP comply with the national and international policy and legal frameworks and guidelines on involuntary resettlement and the preparation and implementation of RAP;
- With regard to design and methodology, the evaluation should combine various approaches and sources and methods of data collection: primary and secondary sources, quantitative (e.g. systematic sample surveys) and qualitative methods (e.g. Participatory Rural Appraisal). In this regard it is important to ensure the participation and inputs of PAPs and local institutions in the evaluation process and qualitative methods which enable the inclusion of the views and perceptions of PAPs are essential for the quality and credibility of the output of the evaluation exercise.

#### **11.4.8 RAP Progress Reviews**

RAP progress reviews are broader than IPM with the respect to the participants, time period undertaken, and objectives and purposes. The following are the main points and guidelines to be followed in conducting the RAP progress review:

- All stakeholders, especially the representatives of institutions and committees directly involved in the implementation of the RAP will participate in the progress

review meetings or workshops (see the institutional framework).

- After the launching of the RAP, progress review meetings are the most important and perhaps the only occasions in which all stakeholders will come together face to face and will have the opportunity to review and assess the processes and problems of the implementation collectively. That is why progress reviews are very crucial.
- The main purpose of the RAP review, as the word itself implies is to share and disseminate information among stakeholders, review and assess the processes and problems of implementation, and based on the findings and the collective assessments highlight achievements and best practices, provide solutions for outstanding and major problems and challenges faced
- County meetings will be held over the entire period of project implementation. Often times, the early stages in the implementation of RAP are when problems and challenges are encountered. Due to this, it is important to hold the first review meeting as early as possible after the start of implementation,
- KENHA's Environmental and Social Interest Unit staff will assume the main responsibility for organizing the review meetings, main presentations on the problems and process of implementation and all other necessary preparations and inputs for the meetings. The proceedings of the review meetings will be systematically compiled, edited and distributed to all stakeholders.
- Since the nature and purpose of reviews are broader than IPM, in addition to in-house data and information from performance monitoring reports, it is necessary to collect and include quantitative and qualitative data through limited sample surveys of PAPs and qualitative/participatory methods about key issues associated with the implementation of the RAP. This will ensure the participation of PAPs and local government and will enable the implementing agency to assess and know the views and perceptions of the affected populations at an early stage and take necessary corrective measures.

## CHAPTER TWELVE

### 12 IMPLEMENTATION SCHEDULE AND BUDGET

The total Resettlement Action Plan implementation costs for the project are summarized in Table 48. The total budget required to compensate for the loss of land, perennial crops, houses and other properties is estimated as **152,835,446.50**. The cost for implementing the Resettlement Action Plan is considered as a component of the financial requirements of the project, and will be borne by KenHA. Moreover, the costs captured in Table 48 do not include any additional costs for PAPs who might lodge grievances related to their property values. Whether or not any grievances may be brought before local grievance committees is unknown at this writing.

**Table 48. Estimated Budget for RAP**

<b>Table 48</b>		
<b>Estimated Compensation and Resettlement Costs (Ksh)</b>		
<b>MPLRI Project</b>		
<b>Budget Item</b>	<b>Cost Basis</b>	<b>Cost (Ksh)</b>
Income restoration	Responses to occupational and Income questions included in household survey administered to 280 project- affected households (total population)	80,030,050.00
Property and other assets	Valuations of property and other eligible assets for 280 surveyed households; land excluded from valuations and compensation costs due to the fact that PAPs are on ROW	65,235,791.00
<b>Subtotal</b>		<b>145,265,841.00</b>
Monitoring and evaluation of preliminary RAP formulation and implementation	Estimated 10 percent of total compensation costs	14,526,584.10
<b>Total</b>		<b>159,792,425.10</b>

#### 12.1 Implementation Schedule

An indicative schedule for the implementation of Resettlement Action Plan has been prepared and provided in below. The total implementation time from the establishment to the completion of compensation payment and moving the compensated people and start of construction is six months.

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.

### **12.1.1 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.

### **12.1.2 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

#### **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

### **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

### **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.

### **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.

### **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.

### **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.

#### 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.

#### **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.

**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.

**Institutional Roles in Compensation**

**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*

### **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.*

## **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.

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## **APPENDIX**

### **12.2 List of Consulted PAPs-See Separate Attachment**

## 12.3 Field Study Tools

### 12.3.1 Socio-economic Survey Questionnaires

#### RAP QUESTIONNAIRE RESETTLEMENT ACTION PLAN

##### 1 Interview Details

Interviewer Name		Date of Interview	
Name of Respondent		Relationship to Landowner	
District		County	
Constituency		Ward	
Division		Location	
Sub-location		Village Name	
Plot Number		GPS Location	
Address		Mobile Number	

##### 2. Details of the Household

2.1 Name of household member	2.2 Status 1. Household head 2. Spouse 3. Son 4. Daughter 5. Other relatives 6. Adopted	2.3 Sex 1. Male 2. Female	2.4 Year of Birth	2.5 Marital Status 1. Married Monogamy 2. Married Polygamy 3. Single 4. Divorced 5. Widowed	2.6 Education Level 1. None 2. Nursery 3. Primary 4. Secondary 5. College/Technical school 6. University	2.7 Occupation 1. Farmer 2. Civil Servant 3. Teacher 4. Trader 5. Fisher 6. Other (specify)	2.8 Vulnerable 1. Yes 2. No	2.9 Vulnerability (if 2.8 is yes) e.g. Widowed, Disabled Physically or Mentally etc. <b>(Ulemavu wowote)</b>
1								
2								
3								
4								
5								
6								

##### 3. Land and dwelling

3.1 Do you own this land? 1. Yes 2. No *{If Yes, go to 3.3}*

3.2 If No, in whose name is this land registered?

3.3 How many years have you been living here? \_\_\_\_\_

3.4 How did you acquire this land? 1. Inheritance 2. Purchase 3. Other, Please specify \_\_\_\_\_

3.5 When did you acquire this land? \_\_\_\_\_

3.6 What ownership documents do you have? 1. Title deed 2. Allotment letter 3. Other, Please specify \_\_\_\_\_

3.7 What is the land registration number?

3.8 What is the size of this land (acres)? \_\_\_\_\_

3.9 Do you own land anywhere else? 1. Yes 2. No *{If No, go to 3.11}*

3.10 If Yes, please specify

Where (Village)	Size (acres)	Ownership documents	Land Registration Number	Year of acquisition


*{3.11 Walk along and determine}*

3.11 How many meters (using steps where 1 step = 1 meter) of the land will be covered by the main canal?  
 \_ meters.

3.12 Note the main features on the main canal's corridor (30m wide) as follows

Name of trees								
Number								
Name of crops								

3.13 Are there any graves on the main canal's path? 1. Yes (If Yes, How many) \_\_\_\_\_  
 2. No

3.14 How many structures (buildings) belong to this household? \_\_\_\_\_

3.15 How many of this household's structures will be relocated/affected as result of the construction of the main canal?

*{3.15 Is the number of structures that lie on the main canal's path} {If there are no affected structures go to 3.17}*

3.16 If there any structures affected in 3.15 please provide the following information for the affected structures ***{INFORM ESF TEAM MEMBER TO TAKE PHOTOS OF THE STRUCTURE AND TELL THEM THE QUESTIONNAIRE NUMBER}***

Use of the structure (house)	Owner	Approximate size in meters		Year constructed	Building materials			Photo number
		Length	Width		Floor	Walling	Roofing	

*Building materials: {1. Mud block} {2. Mud block with plaster} {3. Concrete blocks} {4. Clay (burnt) bricks} {5. Reeds, thatch, sticks} {6. Plastic} {7. Tin iron sheets} {8. Bricks} {9. Stone}*

3.17 Would you be willing to give up part of your land for the project if necessary? 1. Yes 2. No

3.18 Would you be willing to be resettled as a result of the project if necessary? 1. Yes 2. No.

*{If Yes go to 3.20, If No go to 3.19}*

3.19 If no, please state why?

*{If No in 3.18 and 3.19 the reason for choosing No is filled in 3.19 go to 3.23}*

3.20 If Yes in 3.18, where would you like to be resettled?

- i. Within the same land
- ii. In the same community area
- iii. The resettlement location does not matter
- iv. Another area of my choice, (please specify) \_\_\_\_\_

3.21 What is the distance to this new site? \_\_\_\_\_

3.22 Which way would you like to resettle? 1. With community/family members 2. Without community/family members

3.23 If you were relocated/displaced, how would you like to be compensated for the following and how much?

Item for compensation	Preferred mode of compensation	Amount or acreage	Others (Specify here)
Land	1.Land 2. Cash 3. Both		
Houses/Structures	1.Houses 2. Cash 3. Both		
Relocation costs	1.Transport 2. Cash 3. Both		

Livelihoods	1.Training Other	2. Cash	3.		
Others, (Specify) ( <i>Any other losses</i> )					

3.24 What kind of assistance regarding resettlement and rehabilitation do you suggest for the Project Implementation Authority\_\_\_\_\_

3.25 What opportunities for income generation do you see after resettlement\_\_\_\_\_

#### 4. Income and livelihoods

4.1 What are the income sources for this household?

Source	Income (Amount) and time period
i.	
ii.	
iii.	
iv.	
v.	
vi.	

4.2 What is the total expenditure (KSHS) of this household for the following activities

Item	Amount and time period
i.Food	
ii.Education	
iii.Health	
iv.Others (specify)	
v.Others (specify)	

#### 5. Access to Services

5.1 Where do you go for each of the following services?

Currently				In case you were relocated to your preferred site	
Service		Name	Distance (KM)	Name	Distance (KM)
General	Specific				
Health	Clinic/Chemist				
	Dispensary				
	Health centre				
	Hospital				
Education	ECD				
	Primary				
	Secondary				
	Polytechnic				
Water	Portable				
	Animals				
	Irrigation				
Energy source	Paraffin				
	Firewood				
	Other (please specify)				
Church					
Sports					
Shops/Market					
Busstop					
Other services					

**6. Agriculture**

6.1 Does your homestead currently have access to arable land that you use for cultivation? 1. Yes  
2. No *{If No go to 6.3}*

6.2 If yes in 6.1, please explain the following for each land used for cultivation

	Field 1	Field 2	Field 3	Field 4
Terms of use (owned, leased, squatting, communal etc)				
Location of the field (village)				
Size (acres)				
What crops do you cultivate on this land				

6.3 Currently, do you practice irrigated farming? 1. Yes 2. No If yes, where?

6.4 Does this household keep livestock? 1. Yes 2. No *{If No go to section 7}*

6.5 If Yes, Please list the types and numbers of each livestock kept. Cattle\_\_\_\_, Goats\_\_\_\_, Pigs\_\_\_\_, Rabbits\_\_\_\_, Chicken\_\_\_\_, Ducks\_\_\_\_

6.6 Will your grazing grounds be affected by the main canal? 1. Yes 2. No *{If No go to section 7}*

6.7 If Yes, Please explain how? \_\_\_\_\_

**7. Social networks**

7.1 What is your clan?  
\_\_\_\_\_

7.2 Is there any member of this household who is a member of a welfare society, self-help group or Community based organization? 1. Yes 2. No

7.3 If Yes, please give the names of the organization(s) each member is in and the following information, *{If No in 7.2 Skip 7.3}*

Name of Household member	Organization of affiliation	Position in the organization	Activities of the organization	How do you think relocation would affect the member's participation in the organization and the organization's activities?

**8. Impacts of the resettlement**

8.1 What do you see as the impacts/effects, if part of your land/houses is displaced by the main canal?

- i.
- ii.
- iii.

8.2 If you were relocated to another site, what challenges do you think you will face in the new settlement? For each challenge, what measures would you want to be put in place or implemented to help you cope?

Challenge	Measures to help you cope with the challenge or impacts
i	

<b>ii</b>	
<b>iii</b>	
<b>iv</b>	

8.3 What social dynamics (or aspects of this society/community/household) do you think are likely to hinder or facilitate the effectiveness of this resettlement and compensation?

8.4 Any other comments that is important to the respondent and the interviewer

## 12.4 Selected photographs



1



2



3



4



5