

GOVERNMENT OF KENYA



MWACHE MULTIPURPOSE DAM PROJECT

RESETTLEMENT ACTION PLAN (RAP)

SEPTEMBER 2014

FINAL

**WATER SECURITY AND CLIMATE RESILIENCE IN COASTAL
REGION**

**Ministry of Environment, Water and Natural
Resources**

Tech Training and Research Consultants
Nairobi, Kenya



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EXECUTIVE SUMMARY

PREAMBLE

This document presents the Resettlement Action Plan (RAP) for the Mwache Dam Multipurpose Development Project (=the Project). The Project will affect communities in the vicinity of the Project site, the Mwache River immediately downstream of the proposed dam. The RAP has been established in order to ensure that any economic or physical displacement resulting from the Project, whether permanent or temporary is undertaken in a socially responsible manner and according to good international practice. Through the RAP, the Project will apply the relevant national legislations of Kenya's well as the relevant World Bank Policies:

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

STRUCTURE OF THE RAP

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

Table 1 Overview: Contents of the RAP

One	Introduction
Two	Project Description
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THE PROJECT

The Water Security and Climate Resilience in the Coastal Region herein referred to as *“the Project”* is centered around the Mwache Multipurpose Dam and related water supply and irrigation components. The Project was identified as a priority project in Vision 2030 and is included in the Water Supply Master Plan for Coast/Mombasa prepared for the Coast Water Services Board (CWSB) with funding from the World Bank/French Development Agency (AFD) Water and Sanitation Service Improvement Project (WaSSIP). This “Project” includes the following components namely:

- 1) Dam Construction
- 2) Water Related Infrastructure (Supply and Sanitation in Kwale and Mombasa Counties)
- 3) Irrigation (Commencing with 100 ha Demonstration Scheme)

The proposed Project was identified by the Government as a flagship project under the Kenya Vision 2030 mission and also as a necessary facility to provide water for domestic and sanitation purposes including irrigation for Kwale County and at the same time supplement water supply for Mombasa County. Feasibility studies covering the project area have established that water is a priority to all the residents in Kwale and Mombasa Counties in terms of livelihoods and social/economic requirements.

THE PROJECT COMPONENTS

The “Project” targeting Kwale and Mombasa Counties include the following components namely;

1) Dam Component

Following acute shortage of water in most parts of the country (Kenya being a water scarcity country), it has become necessary that alternative mechanisms are developed to harness available sources to supplement the little available quantities of water. With intensive surface runoff during heavy rains, significant volumes of storm water are lost. Dam construction has been identified as an alternative to harness the storm water for storage and use during the dry conditions. Mwache Dam is among the flagship projects identified in the Kenya Vision 2030 geared towards closing the shortage gap in supplementing water to Mombasa, providing water to the local communities as well as other economic activities. The design of the dam has taking into consideration all the possible and but viable uses to ensure maximum benefits. The dam is expected to provide water to Kwale County for domestic and sanitation purposes including irrigation while complementing water supply to Mombasa County, which faces a deficit. The dam reservoir and irrigation (demonstration) will be situated at the Mwache River.

In general, the project civil works will consist of the following:

- **Dam**

The proposed dam is a concrete gravity dam with height of 77.9m-crest length of 425 m and with a reservoir capacity of 118 million m³.

- **Spillway**

Spillway designed is an ungated ogee spillway centrally located. The crest of the spillway is kept at FRL (82.2 m). The length of the spillway is 194 m.

- **Diversion Works**

The dam being concrete gravity dam, diversion of river water during construction will be the major issue.

- **Buffer Zone**

The dam will also be provided with a tree buffer zone all around the inundated areas spanning at least 30m from the highest water level mark.

2) Water Related Infrastructure Investments Component

Irrigation Infrastructure and agriculture productivity improvements pilot

The project entails an irrigation sub component (demonstration pilot) in an area of 100ha around the Mwache Dam Project. The objective of the demonstration pilot is to test the introduction of high value crops, high efficiency irrigation technologies and institutional arrangements for replication on a broader scale. A high efficiency irrigation infrastructure will be deployed on a 100 Ha area close to the Mwache Multipurpose Dam Project. Eventually, the results of the pilot will be used for final design of a larger 2,000 ha high value crops irrigation scheme to be implemented nearby Mwache dam and elsewhere in Kwale County.

The demonstration irrigation infrastructure will use water from a check dam, with the initial implementation of the RAP. Training of farmers will be done through participatory approaches, adaptive agricultural research introducing the new high value crops in the project areas. Main areas of intervention include:

Irrigation Infrastructure

Includes the construction of a check dam and the development of 100 ha of irrigation. The pilot area would give priority to benefit households to be displaced by the dam, and selected farmers who could become lead farmers for training others, each on an average of 0.5 ha of irrigated land. Technologies including: dragline sprinklers, conventional hand-move sprinklers, hosepipe irrigation, bubbler irrigation, and drip irrigation will be tested with the proposed irrigated food and HVCs to be introduced, to demonstrate new practices and train farmers. The irrigation scheme will benefit households who will produce food crops for self-consumption and horticultural crops for the local and export markets.

Formation of and capacity building for irrigation farmers' organizations: Technical support for the formation of IWUA(s) and other farmers' organizations will help empower them to (a) operate and maintain the irrigation system and (b) contract with the market for improved access to agricultural inputs and to marketing of their products. Training would include 'training for transformation' (a form of civic education that prepares people for participation and includes topics such as 'how to conduct meetings', leadership and so on), as well as the basics of business and contracts. Implementation of this and the following subcomponents would commence with development of irrigation and with the support of the on-going Kenya Coastal Development Project (KCDP) operating in the region.

Marketing and Development of Market Linkages: This subcomponent would provide for a study of the potential local and export markets to absorb horticultural and livestock produce from the project, to be completed prior to the Mid-Term Review for the irrigation demonstration. It would also provide for promotion of market linkages between irrigation farmers and agribusinesses, including exporters (such as VEGPRO) and local processors (such as the Mariakani Dairy plant being recovered by CDA), to support a sustainable and inclusive agricultural production and the development of value chains, including efficient on-farm production and pertinent post-harvest infrastructure and equipment for adding value to the farm produce through adequate handling, packing, processing and marketing.

Strengthening Public Extension Service: In addition to the support provided through market linkages (e.g. through private sector partners such as VEGPRO); the Farmer Field School (FFS) approach will be adopted as a group-based, intensive and hands-on extension methodology. The FFS approach to learning ensures that the work is relevant to the needs of resource-poor farmers, enabling them to make their own decisions on best crop management practices that are within their means and environmental context.

Establishment of a fund to provide seed capital for production: This would function, as a revolving fund to be co-managed with farmers' organizations, will facilitate accessing inputs and services to 'kick-start' irrigated and livestock production.

3) Water Supply and Sanitation Infrastructure Component

The objective of this sub component is to enable Kwale County to increase access to safe water service in urban and rural areas and will include an urban and rural water supply sub components as described below.

Urban Water Supply– Kwale population in urban centers is estimated to be in the order of 137,863 by the year 2013; of which 10% are estimated to have access to potable water services. According to its County Integrated Development Plan (CIDP), the objective of Kwale County is to increase coverage to 30% in its main urban areas by the year 2017. Doing so will imply that the county needs financial resources to improve water infrastructure to service an additional 30,227 people in the period 2014-2017. The project will contribute with financial resources for the preparation and implementation of an urban water rehabilitation and improvement project that will cover the additional urban population at an additional average cost of US\$546 per connection serving households of 5

persons. The costs include preparation and implementation of urban water supply subcomponent. Criteria for the selection of Urban Centers (or borrows within urban centers) will be decided upon discussions with Kwale County Officers.

Rural Water Supply– Population in rural areas in Kwale County is estimated to be 585,155 by the year 2013, of which only 1% has access to safe water. Rural population is expected to reach 667,053 by the year 2017, and Kwale County intends to increase access to safe water for 10% of the rural population. Doing so, will mean that an additional 60,854 in Kwale County will need to be provided with infrastructure for accessing to safe water. The main means for accessing to safe water in rural areas are boreholes, which in average can serve about 300 people. At an average cost of about US\$14,700 per borehole, that means that Kwale County will need about US\$ 3 million to be able to achieve its target of increasing access to safe water for about 60,000 additional persons during the period 2014-2017. Criteria for the selection and rural areas will be discussed with Kwale County officers.

Sanitation Infrastructure in Urban Areas– Communal sanitation facilities in critical spots of main urban centers will be financed, based on discussions with county officers in charge of sanitation affairs and urban development planning.

Sustainable Livelihoods Improvement-This activity seek is part of the Kwale County Development Support and aims to improve incomes in Kwale County overall, through support of community-driven development activities that provide sustainable livelihood support. This activity is intended to improve sustainable livelihood paradigms and project benefit sharing for the largely rural communities in Kwale County. It will also focus in developing alternative livelihood activities for communities currently dependent on the unsustainable use of natural resources. As such, it will focus on income-generating activities that also support water security and climate resilience in the county. These could include the development of village-based manufacturing capacity for items such as water source protection, low-cost irrigation and agricultural water management, crop cultivation in zai pits, production value addition, composting, establishment of tree nurseries (for fruit and woodlots), sustainable brick making, development of alternative energy products, improved cook stoves, bee keeping, household-level pond aquaculture, modern livestock management, etc.

PROJECT JUSTIFICATION

Kwale and Mombasa Counties is provided water from four sources including Baricho Water Works in Malindi providing 47,000 m³ /day), Mzima Springs (providing 35,000m³/day, Marere River (bringing in 6,9003 per day) and Tiwi boreholes (producing 3,9003 per day). The sources provide only 35% of the total water demand of the city. The total demand for Mombasa City is estimated about 206,000m³ per day but only 92,800m³ per day is available). There is also significant unaccounted for water (ufW) arising from poor integrity of the distribution network, illegal connections and poor tracking of accessibility. There is, therefore, a strong need to supplement the available water to meet

the demand. The community at the project area relies on the limited connections from the Mzima Springs pipeline to a few communal water points that is hardly enough to meet their requirements. It is hoped that the proposed project will be able to supply water to residents of Kwale County and further supplement the water supply into Mombasa County.

PROJECT BENEFICIARIES

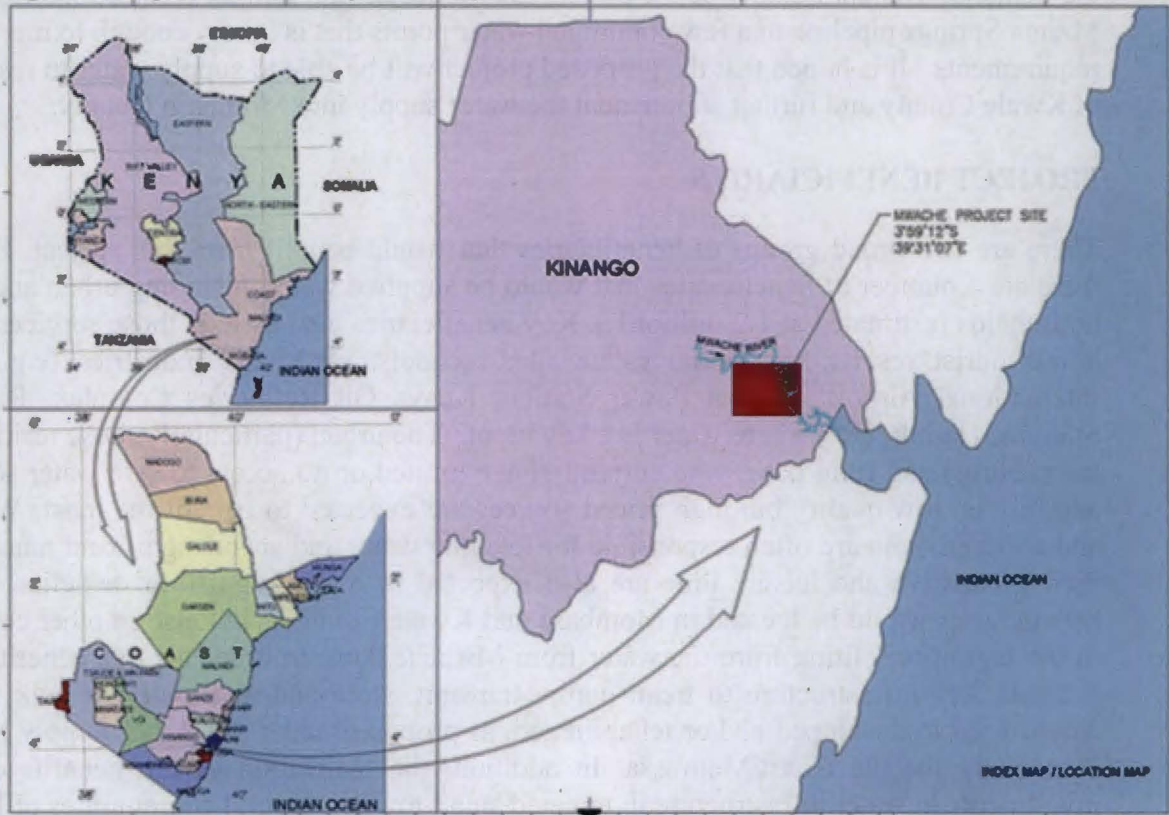
There are two broad groups of beneficiaries that would benefit from this project. Firstly, there are a number of beneficiaries that would be supplied water, including urban and rural households (estimated at 1.2 million¹). Key beneficiaries also include those services (e.g., hotels/tourist resorts, residential estate sites, schools, etc.), and industries (e.g., Moi International Airport, Kipevu Power Station, Kenya Oil Refineries Complex, Railway Stations, Harbor, etc.) where water is a key input. The urban (particularly those residing in the suburbs) and rural poor, who currently have limited or no access to safe water sources and rely on low quality but high priced sources are expected to benefit the most. Women and children, who are often responsible for fetching water and spend significant amount of their productive and leisure time are also expected to obtain significant benefits. These beneficiaries would be located in Mombasa and Kwale Counties, but also in other counties in the region benefiting from the water from Mwache dam. In order for this benefit to be realized, key infrastructure to treat, pump, transmit, store and distribute the bulk water, would need to developed and/or rehabilitated, as proposed under the Water Supply Master Plan study for the Coast/Mombasa. In addition, the realization of the benefits entails investments in water infrastructure in targeted small towns and rural communities of Kwale County.

Secondly, there will be a number of beneficiaries in Kwale County as a result of enhanced livelihood activities. To ensure equity, the target beneficiaries of these activities will prioritize women and the unemployed or underemployed young.

Current estimates show that the Mwache Multipurpose Dam Project will create up to about 500 temporary jobs during the construction period. About 10% of the workforce is expected to be Third Country Nationals. The overall duration of the construction period is estimated to be about 4 years. There will be in total 1,400,000 person-hours divided into two main contracts: the civil works contract and the mechanical works contract.

¹ Based on estimates of the number of people whose water demands would be met with water from Mwache Dam, once all infrastructure per Phases I, II and III of the Water Master Plan for Mombasa and Coast is in place.

Figure 1. Project Location Map – Country Scale



LEGAL AND POLICY BACKGROUND

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

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

1. Land Act 2012
2. Land Registration Act 2012
3. Valuation Act
4. National Land Commission Act
5. The Constitution of Kenya

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

VALUATION METHODOLOGY

In Kenya, the Land Act stipulates that compensation value must be ‘just’. This can be interpreted to mean that the value paid must include all the other miscellaneous expenses as well as disturbance to them. Specific guidelines for assessing or determining “just” compensation have not yet been developed. In this RAP, compensation will be based on replacement cost explained later in the document.

Valuation for assets as outlined in this RAP involved field survey to collect data on the PAPs, land to be acquired/easement rights, structures, trees, community assets and crops affected.

THE CENSUS AND THE SOCIO-ECONOMIC STUDY

The census and the socio-economic study was undertaken between March and April 2014 including consultative meetings with different categories of PAPs. The socio-economic survey was done using a semi-structured household questionnaire. The questionnaire covered the households’ baseline information on incomes and expenditures, occupational and livelihood pattern, use of resources, arrangements for use of common property, social organization, leadership patterns, community organizations, and cultural parameters.

SUMMARY OF PROJECT IMPACTS

CONSTRUCTION AND OPERATION IMPACTS

Impacts on land resulting from construction are limited to the dam and irrigation site. Affected land will be residential land, land used for business and small areas of agricultural land. Land take will result in the permanent change of land use and the termination of the present use of the land. Land take due to construction will affect a total of 746 households, in 18 villages.

Table 2. Affected Villages and Households in Dam and Reservoir Area

Name of Villages Affected Dam Component	Number of Affected Households
Bokole	43
Changa	1
Chigato	18
Chingomeni	88
Chinguluni	72
Fulugani	28
Luweni	1
Mgandini	2
Miyani	4
Mnyenzeni	7
Mrabaini	81
Mwache	91
Mwachipa	106
Mwashanga	35
Mwatate	61
Nunguni	42
Vikinduni	2
Total	685

Table 3. Affected Villages and Households in Irrigation (Demonstration) Area

Name of Villages Affected Irrigation Component	Number of Affected Households
Pemba	61
Total	61

Table 4. Number of Affected Residential Structures by Village

No.	Affected Village	Number of Affected Structures
1	Bokole	4
2	Chigato	2
3	Chingomeni	39
4	Chinguluni	14
5	Miyani	3
6	Mnyenzeni	29

7	Mwache	29
8	Mwachipa	31
9	Nunguni	17
10	Pemba (Irrigation Area)	1
11	Vikinduni	2

OVERVIEW ON PROJECT IMPACTS AND AFFECTED HOUSEHOLDS

Impacts on land resulting from construction are limited to the dam site. Affected land will be residential land, land used for business and areas of agricultural land. Land take will result in the permanent change of land use and the termination of the present use of the land. Land take due to construction and operation will affect a total of 746 households, in the 18 villages as shown in **Tables 3 and 4** above.

The project will create a water storage reservoir upstream from the dam. As a result, areas up to 10 km on both sides of the Mwache River, upstream the dam will become permanently flooded.

- Arable land of 18 villages will be affected:
- Impacts from Project operation will affect private agricultural land, which will be affected by permanent flooding.

Table 5. Summary: Project Impacts and Project Affected People (Dam Site)

Land Acquisition in Dam Site		
Agricultural Land	746.74	685
Business Units		
Residential Structures		171-structures/residential

Table 6. Summary: Project Impacts and Project Affected People (Irrigation Site)

Land Acquisition in Demonstration Irrigation Site		
Agricultural Land	108.57 Ha	61
Business Units	0.00	0.00
Residential Structures		1

Table 7. Summary: Total Land Affected

Irrigation Area	108.57
Dam Area	746.74

Table 8. Summary: Total Structures Affected

Irrigation Area	1
Dam Area	170

Project Affected Persons (PAPs)

Project affected persons (PAPs) are individuals whose assets may be lost and/or affected, including land, property, other assets, livelihoods, and/or access to natural and/or economic resources as a result of activities under the Mwache Multipurpose Dam Project.

The project will physically displace (permanently) households who currently own residential and commercial structures/houses in the proposed project area while another set of households will be economically displaced as a result of losing agricultural land.

Approximately **4,250** PAPs residents are going to be affected by the project and hence referred to as Project Affected Persons.

Project affected households are groups of PAPs in one household and where one or more of its members are directly affected by the Mwache Multipurpose Dam Project. These include members such as the head of household, male, and female members, dependent relatives and members, tenants, etc.

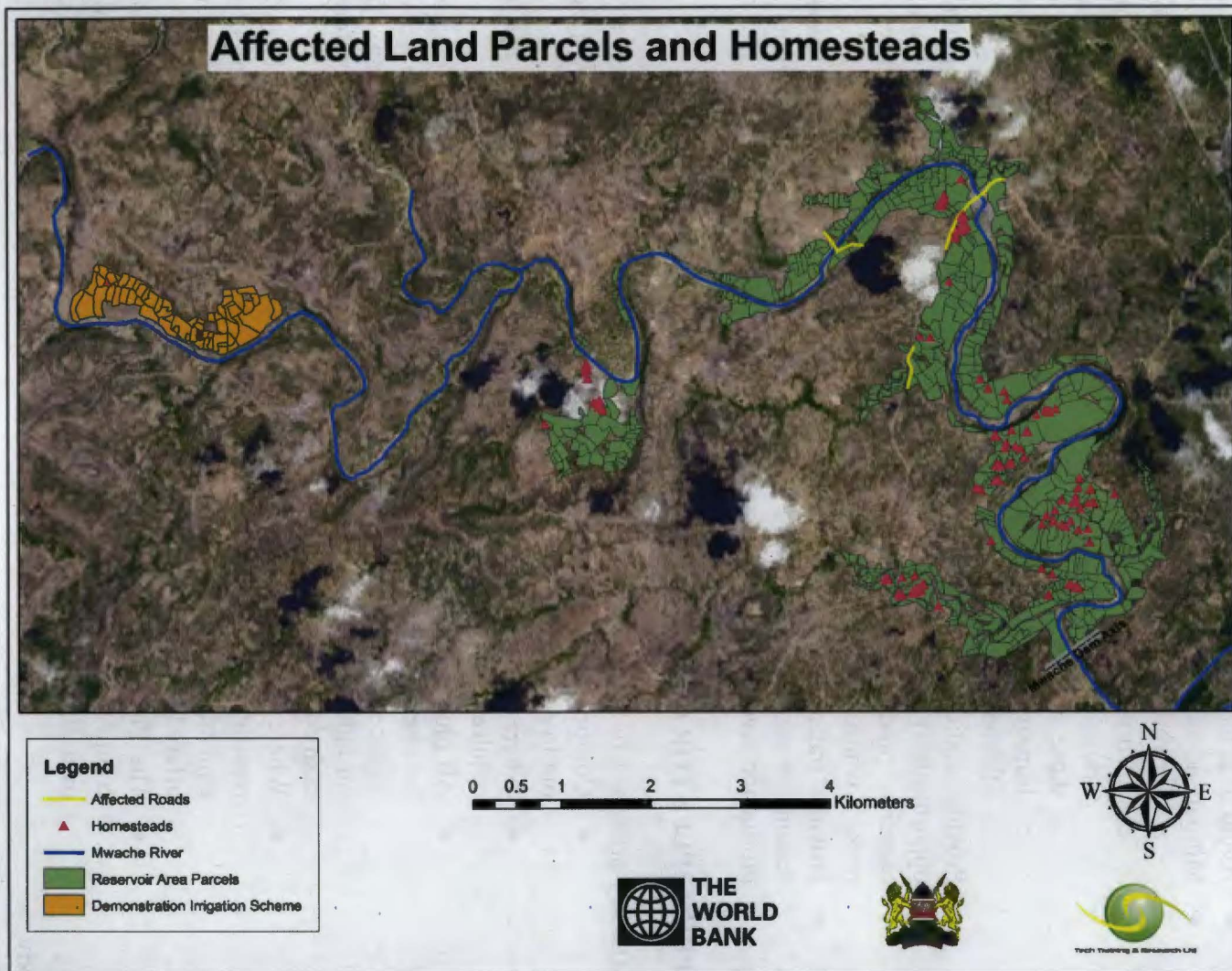
Vulnerable groups are groups who could be a member of affected households. The Mwache Multipurpose Dam Project has separately identified the vulnerable members, such as those who are too old or too ill to support themselves; children; physically challenged; and women headed households. The vulnerable groups are eligible for additional assistance under this RAP, as it is explained later in **Entitlement Matrix** table and the budget.

Category of impact

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

1. Project affected persons with land only (land owners)
2. Project affected persons with business structures (property owners)
3. Project affected persons with land and trees (land and crops)
4. Project affected person without land (Fisher folk, Quarry workers and Sand harvesters).
5. Vulnerable groups – orphans, children, the sick, the old, women, disabled, and widows.

Figure 2: Overview on Project Affected Area- Affected Villages/structures and land



RESETTLEMENT AND COMPENSATION

OVERALL APPROACH

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

Overall objectives of the RAP are:

- Avoid or at least minimize involuntary resettlement
- Mitigate adverse social and economic impacts from land acquisition by:
 - Providing compensation for loss of assets at replacement cost; and
 - Ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected, and
 - Improve or at least restore the livelihoods and standards of living of affected people.
- Provide additional targeted assistance (e.g., credit facilities, training, or job opportunities) and opportunities to improve or at least restore their income-earning capacity, production levels, and standards of living to economically displaced persons whose livelihoods or income levels are adversely affected;
- Provide transitional support to affected people, as necessary, based on a reasonable estimate of the time required to restore their income earning capacity, production levels, and standards of living.

PRINCIPLES FOR COMPENSATION AND RESETTLEMENT

The key principles of this RAP are the following

- Compensation and resettlement of project-affected people will be carried out in compliance with Kenyan legislation and WB OP 4.12;
- Where Kenyan legislation is less favorable to PAPs than WB OP 4.12 requirements or does not apply at all, the latter shall apply;
- All physically and economically displaced people will be offered an option between either a full resettlement package, including the provision of replacement residential land and a house, or cash compensation; The option for land-for-land exchange will be given priority and will be explored before cash compensation;
- Where farmers are economically displaced, they will be offered a resettlement option including the provision of agricultural land of potential equivalent to that of the land they have lost; the land for land option will be offered as primary option before cash compensation;
- The Project will provide for measures to support sustainable use of cash compensation (money management training) and for mechanisms within the overall monitoring framework to follow up the use of cash compensation;

- The Project will assist PAPs in restoring their affected livelihoods and will provide transitional assistance in order to restore livelihoods to at least their previous level
- The Project aims to turn PAPs to Project beneficiaries; targeted livelihood restoration programs will be implemented as part of this RAP in order to achieve this goal
- The RAP implementation and –outcomes will be monitored and evaluated as part of a transparent process
- PAPs (and host communities) were, are and will be informed, consulted and involved in decisions making during the course of RAP development, implementation and evaluation

Table 9. General Approach for Compensation and Resettlement

Loss of Residential Structure and Residential Land

Option 1

- Cash compensation at replacement value for loss of residential house, taking into account market values for structures and materials;
- Cash compensation for loss of residential land at replacement value, taking into account market values for land;
- Cash compensation at replacement value for loss of other non-residential structures, taking into account market values for materials;
- Cash compensation at replacement value for permanent crops in home garden plus: all necessary transaction cost
- Disturbance compensation equivalent to two months rental costs
- Money management training
-

Option 2

- Allocation of residential plot on agreed resettlement site, with secure tenure;
- Transfer of the land to the PAP shall be free of taxes, registration, and other costs
- When the affected holding is larger than the relocation plot, cash compensation to cover the difference in value, taking into account market values for land.
- Reconstruction of a resettlement house of at least the same quality as the affected house; and cash compensation at replacement value of any specific features that would not be included in the resettlement house, and
- Disturbance compensation equivalent to two months rental costs
- Relocation assistance (costs of shifting + allowance)

Note: According to the results of the field surveys in March and April 2014, project affected people **entirely prefer cash compensation** over the land for land or the house for house approach. There was not a single exception to the cash preference.

Loss of Business Structure

Immovable business structure

- Compensation at full replacement value for immovable assets (including commercial land associated to the structure);
- Plus: all necessary transaction costs;
- Compensation for loss of income for the period of time required to re-establish the business

and restore associated income - typically two month income, with a maximum of one year income based on tax records for previous year (or tax records from comparable business, or estimates).

- For partially affected businesses, cash compensation for affected land and opportunity cost compensation equivalent to 5% of net annual income based on tax records for previous year (or tax records from comparable business, or estimates where such records do not exist).
- If business cannot be re-established, livelihood restoration program

Movable business structure (e.g. kiosk)

- Moving allowance (covering moving costs/transaction costs)
- Transition allowance to cover the period until the business is fully operational again after moving (typically 2 month income, with a maximum of 1 year income)
- For partially affected businesses, cash compensation for affected land and opportunity cost compensation equivalent to 5% of net annual income based on tax or accounting records for previous year (or tax records from comparable business, or estimates where such records do not exist)
- Where a business owner is a lease holder, opportunity cost compensation equivalent to 10% of net annual income based on tax or accounting records for previous year (or tax records from comparable business, or estimates where such records do not exist)
- Money management training
- If business cannot be re-established: livelihood restoration program

Note: According to the results of the field surveys in March and April 2014, project affected people **entirely prefer cash compensation** over the land for land or the house for house approach. There was not a single exception to the cash preference.

Loss of Income Due to Employment

- Compensation for lost income for employees of displaced business is the responsibility of the business owner (salaries of employees are part of the compensation amount for lost income); PIU will facilitate respective arrangements between owners and employees, based on the results of field work March and April 2014 and on the results of the exit survey;
- In the case that a displaced business does not reopen elsewhere, former employees are entitled to participate in the livelihood restoration program.
- Livelihood restoration program for the employees who lose their employment

Loss of Other Immovable Structures

- Compensation at full replacement value;
- Plus: all necessary transaction costs;
- Relocation assistance.

Loss of Agricultural Land

- Compensation at full replacement value or market value of affected agricultural land
- Replacement of lost agricultural land of similar potential under similar tenure arrangements with formal registration in replacement land with the relevant land authorities.
- Transfer of the land to the PAP shall be free of taxes, registration, and other costs.
- Allocation of a land shall be in an acceptable distance to residence.
- For those losing more than 20% of land, cash compensation will only be preferred upon confirmation of an alternate land or proof of purchase or identification of new site for relocation.

- Cash compensation of all immovable developments on the affected land, such as structures, etc
- Compensation for loss of perennial crops and trees and full replacement value
- Compensation for loss of seasonal crops at market value
- Plus: all necessary transaction costs;
- Relocation assistance (costs of shifting + assistance in re-establishing economic trees + livelihood rehabilitation assistance)
- Participation in livelihood restoration program

Note: affected people stated their preference for cash compensation; according to a rapid land availability survey, most of the PAPs own other plots of land in different villages. There is a willingness by the community to sell land to their neighbours since they belong to the same clan

Loss of Agricultural Land Sharecropper/Tenant

In case there is a formal contract/agreement with share cropper or tenant

- Allocation of compensation for permanent crops (full replacement value) according to the formal contract (between owner and sharecropper/tenant)
- Compensation for annual crops at market value (only if annual crops could not be harvested prior to date of loss) according to the formal contract (between owner and sharecropper/tenant)
- 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"
- Relocation assistance.
- Money management training
- Participation in livelihood restoration program
- Participation in money management training

In case there is no formal contract/agreement with share cropper or tenant

- PIU will seek to facilitate agreement between with owner on allocation of compensation for permanent crops (full replacement value) according to the informal arrangements (between owner and sharecropper/tenant).
- Compensation for annual crops at market value (only if annual crops could not be harvested prior to date of loss) according to the informal arrangements (between owner and sharecropper/tenant).
- Compensation at full replacement value for improvements on land to the documented owner of the improvement.
- Relocation assistance.
- Money management training.
- Participation in livelihood restoration program

Loss of Permanent Crops

- Compensation at full replacement value of the lost crops (average of 3-year market value of mature harvested crop plus associated labour costs)
- Participation in money management training

Loss of Access to Resources

Sand Digging Businesses on Riverbanks

- Assistance in finding new business sites
- Restoration allowance (costs for moving and re-establishment of business site plus all transaction costs)
- Compensation for loss of income for the period of time required to re-establish the business and restore associated income - typically two month income, with a maximum of one year income.
- Money management training
- In case the business cannot be restored: participation in livelihood restoration program

Fish Harvesting on River Mwache

- Assistance in finding new fishing sites
- Restoration allowance (costs for moving and re-establishment of fishing site plus all transaction costs)
- Compensation for loss of income for the period of time required to re-establish the business and restore associated income - typically two month income, with a maximum of one year income.
- Money management training
- In case the business cannot be restored: participation livelihood restoration program
- In case that the displaced business cannot be restored: participation in livelihood restoration program.

Note: Some of the affected businesses are organized as co-operatives (see entitlement matrix below)

Loss of Access to Resources During Construction

Access to the Mwache River for fishing

- Assistance in finding alternative fishing sites upstream during construction period
- Re-establishment of access to original fishing sites immediately after construction (2 month period after completion of construction)
- Severance allowance equivalent to a 2-month income from fishing)

Note: Vulnerable people, in addition to entitlements as listed above, are entitled to special assistance as needed to participate effectively in the resettlement process

Note: actual land market assessments will be done prior to determination of final replacement rates for residential land, commercial land and agricultural land.

Note: entitlements are presented separately for each category of affected household/entity; some households may qualify for entitlements in more than one category (for example, a household that is physically and economically displaced may qualify for the entitlements for both these categories. e.g. households losing their residential structure and losing agricultural land);

Note: Prior to the start of the compensation payment process, compensation agreements with affected people will be set up and signed.

Note: In spite of the fact that there is an overwhelmingly preference for cash compensation, for those losing more than 20% of land, cash compensation will only be preferred upon confirmation of an alternate land or proof of purchase or identification of new site for relocation.

LIVELIHOOD RESTORATION PROGRAM

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

- Financial training for the sustainable use of cash compensation (including training on the maintenance of a bank account, on small household investments, saving strategy and financial planning on the household level);
- Agricultural extension training for intensification of production;
- Livestock keeping extension training, and
- Business skills training: facilitation of access to alternative income generating activities.

Priority Access to Construction Employment

- Affected households will be provided with priority consideration for construction employment.

Kwale County Development Program

- This Component is part of the livelihood improvement (sustainable) for the wider Kwale County aims to promote benefits sharing in Kwale County, where the Mwache Multipurpose Dam is located, through investments in water supply and sanitation in rural communities and small towns; community-based watershed management activities, and improvement of community livelihoods. By supporting these activities, Component 2 will bring near-term and medium-term benefits to Kwale County, in parallel to the planning and preparation for the large-scale infrastructure that would supply water to Kwale (from Mwache, and other sources) in the long-term. In addition, this component will finance a demonstration irrigation scheme to inform design of a large-scale irrigation program in Kwale in the future.

Sustainable Livelihoods Improvement

This activity seeks to improve incomes in Kwale County overall, through support of community-driven development activities that provide sustainable livelihood support. This activity is intended to improve sustainable livelihood paradigms and project benefit sharing for the largely rural communities in Kwale County. It will also focus in developing alternative livelihood activities for communities currently dependent on the unsustainable use of natural resources. As such, it will focus on income-generating activities that also support water security and climate resilience in the county. These could include the development of village-based manufacturing capacity for items such as water source protection, low-cost irrigation and agricultural water management, crop cultivation in zai pits, production value addition, composting, establishment of tree nurseries (for fruit and woodlots), sustainable brick making, development of alternative energy products, improved cook stoves, bee keeping, household-level pond aquaculture, modern livestock management, etc.

- Affected households will be entitled to priority assistance through the Kwale County Development Program.

Cut-off Date

- The cut-off date for this RAP was communicated to the affected communities during the fieldwork in March-April 2014. The cut-off dates are the respective dates of census survey meetings in the affected communities in March-April 2014.

GRIEVANCE MANAGEMENT

In practice, in similar compensation and resettlement activities, grievances arise from misunderstandings of the Project policy, or result from conflicts between neighbours, which can usually be solved through adequate mediation using customary rules or local administration at the lowest level. Most grievances can be settled with additional explanation efforts and some mediation using customary dispute settlement mechanisms.

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

Procedures within the grievance management process are explained in detail in the full report below. Grievance management will provide two tiers of amicable review and settlement, with the first one on the village level. The second level will integrate a mediation committee in case the grievance cannot be solved on the first level. Finally, there will be the option for each complainant to resort to court (third level), in case there is no solution within the Project's grievance mechanism.

VULNERABLE PEOPLE

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

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

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

In the context of the Project, vulnerable people include:

- Households whose heads are children;
- Households whose heads are female, particularly widowed or repudiated and divorced women having to take care of their children, and who live with limited resources;
- Landless people having to work on others' land;
- Households who have no or very limited resources, including those who are marginalized due to their social status.
- Disabled persons, whether mentally or physically;
- People with serious medical conditions, particularly people living with HIV, AIDS and other chronic illnesses;
- Elderly people, particularly when they live alone.
- Under the provisions of the RAP, vulnerable households will be provided with targeted assistance.

CONSULTATIONS

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

The consultation and stakeholder engagement activities of the RAP are entirely interwoven with the Project's Stakeholder Public Consultation and Disclosure Plan (PCDP). The PCDP is attached to the RAP as an alone standing document.

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

Between March–April 2014, a total of 746 individual and group interviews with stakeholders were conducted in eleven survey areas. These interviews were conducted with the following stakeholder groups:

- Administrators and local representatives from the national government (Chiefs, Assistant Chiefs, Village Elders, District Land Officer);

- Kwale County Executive Committee Members (Devolution and Governance; Youth Women and Sports);
- Representatives of Kaya Elders (Kaya Mswakara)
- Representatives of local civil society associations (women, youth, etc.)

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

In March-April 2014, a comprehensive National and County Government stakeholder consultation process was developed in order to obtain authorizations for consultants to conduct fieldwork, as well as to engage as soon as possible with government authorities in obtaining their views, advice and participation in defining the socio-economic and environmental impacts of the project and the most adequate mitigation measures to apply.

This was also a particularly important step in terms of gaining a better understanding of resettlement impacts and planning possible synergies with rural development projects to find available land and propose restoration strategies.

During March and April 2014, consultations with communities along the Mwache River and proposed site for demonstration pilot irrigation scheme, where the proposed dam and demonstration irrigation site amongst them the affected communities, were performed.

Consultations were conducted after preparatory meetings with Kwale County Government authorities and the local administration including chiefs and assistant chiefs from the affected project sites. The local administrators facilitated the performance of the field program. Affected local communities were visited in order to inventory the affected assets in a participatory manner. Village leaders, resettlement committees including existing **Mwache Dam Committee** members and affected households participated in the asset inventory process. The asset inventory process and validation was aiming to obtain information on land use on the individual/household level.

In the context of the consultations, communities were provided with updated information about the Project in the frame of community meetings. An overview on the consultation activities in the context of the Project so far is provided in the full text below.

Consultation activities in the frame of this RAP have a focus on:

- Consultation in the context of the RAP approach to compensation:
 - Self-validation of affected land by local communities
 - Consultation with resettlement committees on compensation approach
- Consultation of local communities/focus groups on PAPs on how to best compensate the loss of land;

- Consultation of local communities on needs and aspirations with regard to the design of livelihood restoration measures;
- Consultation in the context of RAP disclosure;
- Routine consultation of local resettlement committees in the context of the RAP monitoring program;
- Public consultation on the context of the RAP monitoring program;
- Continuous information of the affected population and other project stakeholders about Project progress and upcoming relevant activities:
 - One important information campaign in the context of the Project's overall consultation program is the information of Ex-PAPs (people who were considered as affected due to previous demonstration irrigation site, but are not affected as a result of a new site being identified) about the actual status of Project design and the respective impact on their status as project affected people; this campaign has been implemented as part of the PCDP
- Continuous update of stakeholder list of the RAP.

MONITORING AND EVALUATION

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

- **Monitoring**

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

- **Auditing**

Auditing looks at compliance and completion of the resettlement process.

- **Evaluation**

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

The following monitoring and evaluation approach will be used, whereby different levels of monitoring and evaluation are used:

Internal progress (Input/Output) monitoring: measures whether inputs are delivered on schedule and as defined in the RAP, and their direct measurable results, for instance:

- Amounts of compensation paid in a given month

- Completion of cash payments and follow up of self-resettlement of affected people, prior to any construction activity
- Completion of physical relocation prior to any construction activity
- People completing livelihood restoration training courses

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

- Outcome evaluation: Defines the extent to which the project is achieving or likely to achieve the objectives of the RAP. Re-establishment of businesses and earning acceptable returns over a reasonable period is an example of outcome. Outcome evaluation, combined with output monitoring results, will indicate whether the program is genuinely working and should continue to be implemented as planned, or whether some fundamental changes need to be made. Outcome evaluation looks beyond numerical compliance to the longer-term impacts of program inputs and outputs, do determine what works and what does not work, and what needs to be changed. Outcome evaluation will be done by an independent entity.
- Outcome evaluation often uses proxy indicators (indirect indicators): for example, many people are reluctant to talk about their actual income. Proxy indicators can be used to help determine whether affected people are re-establishing or improving their livelihoods and standard of living. Indirect indicators may include status of nutrition, school attendance, or the purchase of “luxury” items such as motorbikes, sat TVs.

Outcome evaluation reports will be publicly disclosed.

- Audit of compliance and completion: Defines whether the RAP and applicable requirements have been complied with, and if the implementation can be deemed complete (external audit).

IMPLEMENTATION ARRANGEMENTS

The RAP, will be implemented within one overall organizational set up, by multi-disciplinary teams on different levels

The implementation of the Project will require the participation of several key players, including, but not limited to,

- The Governments of Kenya -MEWNR
- Kenya Water Security and Climate Resilience Project -PMU
- Project Implementing Unit (PIU) i.e. Coast Development Authority

- The Kwale County Government
- As well as – during construction - the Owner’s Engineer and the Construction Contractor (for details see ESMP).

Ministry of Environment, Water and Natural Resources

The Ministry of Environment, Water and Natural Resources is the implementing agency for this project under the Water Security and Climate Resilience Project for the Coastal Region. MEWNR will mobilize funds from Government of Kenya (GoK) i.e. National Treasury for resettlement and compensation purposes of this RAP.

Water Security and Climate Resilience Project –PMU/PIU

For the purposes of implementing the Water Security and Climate Resilience in the Coastal Region Project (KWSCR-2), the PMU established under the first phase of the Water Security and Climate Resilience Program (KWSCR-1) will establish an Implementation Unit in the coastal region (PIU). The PIU will be responsible for implementing the RAP and will have the role of compiling, documenting and filing the RAP implementation documents, with a team dedicated to carrying out the respective activities, and coordinating with the County Government of Kwale. The PIU will operate on site, in interaction with the project affected people and direct cooperation with the County Government of Kwale.

The PIU as an implementation unit will operate from CDA’s headquarters in Mombasa Town, as well as directly at the Project site, with a local Project office.

The key implementation processes of the RAP require continuous presence in the project area and continuous communication with local authorities, resettlement committees and affected people.

A project office at the Project site (location yet to be determined, in the Kasemeni Area) will maximize efficiency and accessibility of the PIU staff.

To properly deliver its mandate, the PIU must be fully established and operational as soon as the decision to go ahead with the Mwache Multipurpose Dam Project has been made. This is in order to initiate and manage in a timely manner those key RAP implementation activities, which will have to be performed prior to the start of construction (i.e. the compensation process for people affected by construction).

With regard to the implementation of the RAP and the PCDP, the PIU has the following responsibilities

Communication and Coordination

- Overall coordination with Kwale County Government and local administration and MEWNR/KWSCR/PMU with regard to the Project's social and environmental issues
- Implementation of the PCDP and establishment of good and operational relations to affected communities
- Communication and cooperation with local resettlement committees as key actors with implementation processes (i.e. compensation process, monitoring, identification of vulnerable people)

Management of RAP Implementation

- Ensure and monitor overall social and environmental due diligence within RAP implementation (national requirements, lenders requirements)
- RAP Key Implementation Processes
- Compensation process
- Grievance Mechanism
- Monitoring
- Manage staff recruitment processes and contracting processes of external service providers
- Design of overall training plan for implementation staff, oversee implementation of plan
- Establishing ad hoc Resettlement and Compensation Committees;
- Review the budget needed for the implementation of this RAP and make request for the funding from MEWNR;
- Provide the funds for compensation to the National Land Commission (NLC)², which in turn will compensate the affected people.
- Provide budget for Resettlement and Compensation Committees operations;
- Ensure the grievance committees are established and working; collect all the needed documentation for compensation as well as grievances and compiling them;

Management of ESMP implementation

- PIU will also be responsible for ESMP implementation. For further details, see ESIA.

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 KWSCR/PMU for final decision-making.

²According to the Part VIII of the Land Act 2012, National Land Commission (NLC) *exclusively* reserves the power and functions on compulsory land acquisition, including valuation and public participation..

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

Kwale County Government

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

Grievance Redress and Resettlement Committees

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

- Compensation process
- 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

First Level: Duruma Council of Elders

The Duruma community is deeply traditional and observes a historical way of life based on clanism. Durumas are part of the Mijikenda and comprise of 14 clans who are guided by Council of Elders. The Council of Elders is a cultural body that plays a significant role among the Duruma and is respected. They have the mandate to resolve conflicts including land related conflicts; natural resources related conflict e.g. pasture; interclan conflicts; among others. The Council of Elders also presides over rights of passage including circumcision, marriage rights among others.

This RAP prefers the first level of grievance or conflict redress on land related issues as a result of this project to be handled by the Council of Elders as an organ that has as part of Duruma culture been handling land related disputes. Grievances not resolved by the Council of Elders will be taken to the second level.

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

- The sub locational chief,
- Assistant chiefs,

- One project affected youth,
- One project affected woman,
- One project affected male
- A representative of vulnerable groups,
- A CBO in the location.
- Business representative.

There will be a mediation committee at the district level to handle grievances that cannot be resolved by the village committee and membership will include:

- One representative of the District Administration; - National Government
- One representative of County Administration; - County Government
- Land Officer
- One representative of the PIU, 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.

Fourth 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).

National Land Commission (NLC)

The Land Act 2012 empowers NLC to manage public land and carry out compulsory acquisitions of land for specified public purposes. NLC has been constituted and thus legally, NLC is supposed to provide approval to the request made by MEWNR to acquire land. NLC is also expected to notify landholders in writing of the intention to acquire land; assist in resolving disputes related to compensation; undertake public consultation on intended acquisition; receive money from MEWNR for actual payment of entitlement awards to PAPs. NLC holds the authority to execute compulsory acquisition in Kenya. The Government of Kenya bears the authority for land acquisition, which is vested on the NLC by legislation.

It is important to note that the NLC also has statutory powers to prescribe criteria and guidelines for land acquisition. Therefore, the criteria prescribed in this case could necessitate a variation or revision of this RAP – if NLC, which is constituted but not yet fully active in terms of operation, embark on the land acquisition process if they so demand.

BUDGET

Based on the Land Act and OP.4.12, the RAP consulting team came up with cost estimates for the RAP. As mentioned earlier, it is important to note that the Land Act does not expressly include costs related to relocation. However, for this RAP, a 15% disturbance

and relocation assistance was included to the budget. The relocation assistance will cater for economic, social and physical disturbance caused to a PAP. While the project will pay for supporting infrastructure related to resettlement, such as the construction of houses and non-residential structures, roads, water supply, electricity, and livelihood training, etc., the Government of Kenya will pay for cash to purchase land and any cash compensation paid to the PAPs.

Table 10. Total Permanent Crop Compensation Cost

Total Number of Crops	43,411
Total Cost/Compensation	Ksh. 16, 033,872
Total Compensation in USD	USD 188,634

Table 11. Compensation Rates for Residential and Commercial Land in Project Area

Land Size	Price Per Ha (USD)	Total Cost (Ksh)	Total Cost (USD)
855.31	3,500	254,454,725	2,993,585
Include 15%disturbance allowance=(449,037.75)		38,168,208.75	449,037.75
Grand Total		292,622,933.75	3,442,623.75

Table 12. Compensation Rates for Structures/Residential Houses

Type of house	Replacement Value (Kshs)	Replacement Value (USD)
2-3 room house, 70m2 in surface, and cement bricks with cement finish, concrete pillars, and corrugated iron roof.	29,070,000	342,000
171 # of Structures @ 2,000 USD per structure		
Grand Total	29,070,000	342,000

Table 13. Other Compensation Aspects

Type of structure	Value (Ksh)	Value (USD)
Latrines: Each of the 171HH will be compensated with a latrine @ 200 USD per structure	2,907,000	34,200
Compensation for Graves # 105 of graves at 200 USD per grave	1,785,000	21,000
Compensation for Kaya #2 Kaya in project site: Cleansing of each site and relocation estimated at 10,000 USD	1,700,000	20,000
Livelihood Restoration=1,000 USD per HH for 746 # of HH	63,410,000	746,000
Micro Credit Grant Support		
Transitional Allowance for 746 HH @ 2,000 per HH For 2 years	253,640,000	2,948,000
Grand Total	263,442,000	3,069,200

Table 14. RAP Implementation Costs

Aspect	Value (Ksh)	Value (USD)
Financial/Money Management Training	12,682,000	149,200
External Monitoring and External Coordination for RAP Implementation y0 and y1-y4	21,250,000	250,000
Grand Total	33,932,000	399,200

Table 15. Overview on Budget for RAP Implementation

Total RAP Cost	Ksh	USD
	679,066,933.75	7,919,022.78

RAP Implementation Schedule

The activities related to construction of Mwache Multipurpose Dam Project are expected to commence in July 2016 by which time the PAPs are expected to have moved from the site. It is expected that before July 2016, all the PAPs will have been fully compensated in line with the findings of the RAP study and that all the grievances arising will have been resolved in order to pave way for the project execution.

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ACRONYMS

ADR	Alternative Dispute Resolution
AFD	French Development Agency
AIDS	Acquired Immune Deficiency Syndrome
CDA	Coast Development Authority
CIDP	County Integrated Development Plan
CRA	Commission of Revenue Allocation
CWSB	Coast Water Services Board
DPs	Displaced Persons
DLSAO	District Land Adjudication and Settlement Officer
ESIA	Environment and Social Impact Assessment
ESMP	Environment and Social Management Plan
FGD	Focus Group Discussions
GM	Grievance Mechanism
GOK	Government of Kenya
HIV/AIDS	Human Immuno Deficiency Virus
HVCs	High Value Crops
IWUA	Irrigation Water Users Association
KCDP	Kenya Coastal Development Project
KNBS	Kenya National Bureau of Statistics
KWAWASCO	Kwale Water and Sewerage Company
MDGs	Millennium Development Goals
MESO	Micro Enterprise Support Organisations
MEWNR	Ministry of Water and Natural Resources
NEMA	National Environment Management Authority
NGOs	Non-Governmental Organizations
NLC	National Land Commission
NLP	National Land Policy
NT	National Treasury
PAH	Project-Affected Household
PAP	Project Affected Persons
PCDP	Public Consultation and Disclosure Plan
PIU	Project Implementation Unit
PMU	Project Management Unit
PRA	Participatory Rural Appraisal
RAP	Resettlement Action Plan
RPF	Resettlement Policy Framework
SA	Social Assessment
SEBR	Socio-Economic Baseline Report
SMP	Social Management Plan
WaSSIP	Water Sanitation Service Improvement Project
WSCR	Water Security Climate Resilience Project/Coastal Region

GLOSSARY OF TERMS

DEFINITIONS

-Project-Affected Area: An area, which is subject to a change in use as a result of the construction or operation of the Project.

-Project-Affected Person (PAP): Any person who, as a result of the implementation of the Project, loses the right to own, use, or otherwise benefit from a built structure, land (residential, agricultural, or pasture), annual or perennial crops and trees, or any other fixed or moveable asset, either in full or in part, permanently or temporarily. PAPs may include:

- Physically Displaced People, i.e. people subject to Physical Displacement as defined hereunder,
- Economically Displaced People, i.e. people subject to Economic Displacement as defined hereunder.

-Physical Displacement: Loss of shelter and assets resulting from the acquisition of land associated with the Project that requires the affected person(s) to move to another location.

-Economic Displacement: Loss of income streams or means of livelihood resulting from land acquisition or obstructed access to resources (land, water or forest) caused by the construction or operation of the Project or its associated facilities. Not all economically displaced people need to relocate due to the Project.

-Project-Affected Household (PAH): A PAH is a household that includes Project-Affected Persons as defined above. A PAH will usually include a head of household, his/her spouse and their children, but may also include other dependents living in the same dwelling or set of dwellings, like close relatives (e.g., parents, grandchildren).

-Compensation: Payment in cash or in-kind at replacement value for an asset or a resource that is acquired or affected by the Project at the time the assets need to be replaced. In this RAP, “cash compensation” means compensation paid in cash or by cheque.

-Resettlement Assistance: Support provided to people who are physically displaced by the Project. Assistance may include transportation, and social or other services that are provided to affected people during their relocation. Assistance may also include cash allowances that compensate affected people for the inconvenience associated with resettlement and defray the expenses of a transition to a new locale, such as moving expenses and lost workdays.

-Replacement Value: The rate of compensation for lost assets must be calculated at full replacement value, that is, the market value of the assets plus transaction costs. The replacement value must reflect the cost at the time the item must be replaced. With regard to land and structures, “replacement value” is defined as follows:

- **Agricultural land:** the market value of land of equal productive use or potential located in the vicinity of the affected land, plus the cost of preparation to levels similar to or better than those of the affected land, plus the cost of any registration and transfer taxes;

- **Household and public structures:** the cost of purchasing or building a new structure, with an area and quality similar to or better than those of the affected structure, or of repairing a partially affected structure, including labor and contractors' fees and any registration and transfer taxes.

- **Vulnerable Groups:** People who by virtue of gender, ethnicity, age, physical or mental disability, economic disadvantage, or social status may be more adversely affected by resettlement than others and who may be limited in their ability to claim or take advantage of resettlement assistance and related development benefits.

- **Replacement cost for houses and other structure** means the prevailing cost of replacing affected structures, in an area and of the quality similar to or better than that of the affected structures. Such costs will include: (a) transporting building materials to the construction site; (b) any labor and contractors' fees; and (c) any registration costs.

- **Resettlement Policy Framework (RPF)** is an instrument to be used throughout the Program implementation. The RPF sets out the resettlement objectives and principles, organizational arrangements and funding mechanisms for any resettlement that may be necessary during implementation. The RPF guides the preparation of Resettlement Action Plans of individual sub projects in order to meet the needs of the people who may be affected by the project. The Resettlement Action Plans ("RAPs") for the Mwache Dam Multipurpose Program will be prepared in conformity with the provisions of this RPF.

- **Census:** means a field survey carried out to identify and determine the number of Project Affected Persons (PAP) or Displaced Persons (DPs) as a result of land acquisition and related impacts. The census provides the basic information necessary for determining eligibility for compensation, resettlement and other measures emanating from consultations with affected communities and the relevant stakeholders.

- **Cut-off date:** Cut-off date—Date of completion of the census and assets inventory of persons affected by the project. Persons occupying the project area after the cutoff date are not eligible for compensation and/or resettlement assistance. Similarly, fixed assets (such as built structures, crops, fruit trees, and woodlots) established after the date of completion of the assets inventory, or an alternative mutually agreed on date, will not be compensated.

- **Displaced Persons:** mean persons who, for reasons due to involuntary acquisition or voluntary contribution of their land and other assets under the program, will suffer direct economic and or social adverse impacts, regardless of whether or not the said Displaced Persons are physically relocated. These people may have their: standard of living adversely affected, whether or not the Displaced Person will move to another location; lose right, title, interest in any houses, land (including premises, agricultural and grazing land)

or any other fixed or movable assets acquired or possessed, lose access to productive assets or any means of livelihood.

-Involuntary Displacement: means the involuntary acquisition of land resulting in direct or indirect economic and social impacts caused by: Loss of benefits from use of such land; relocation or loss of shelter; loss of assets or access to assets; or loss of income sources or means of livelihood, whether the Displaced Persons has moved to another location or not.

-Involuntary Land Acquisition: is the possession of land by government or other government agencies for compensation, for the purposes of a public program against the will of the landowner. The landowner may be left with the right to negotiate the amount of compensation proposed. This includes land or assets for which the owner enjoys uncontested customary rights.

-Land: refers to agricultural and/or non-agricultural land and any structures thereon whether temporary or permanent and which may be required for the program. Land acquisition” means the possession of or alienation of land, buildings or other assets thereon for purposes of the program.

-Rehabilitation Assistance: means the provision of development assistance in addition to compensation such as land preparation, credit facilities, training, or job opportunities, needed to enable the program Affected Persons and Displaced Persons to improve their living standards, income earning capacity and production levels; or at least maintain them at pre-program levels.

-Resettlement and Compensation Plan: also known as a “Resettlement Action Plan (RAP)” or “Resettlement Plan” - is a resettlement instrument (document) to be prepared when program locations are identified. In such cases, land acquisition leads to physical displacement of persons, and/or loss of shelter, and /or loss of livelihoods and/or loss, denial or restriction of access to economic resources. The party impacting on the people and their livelihoods prepares RAP. RAPs contain specific and legal binding requirements to resettle and compensate the affected party before implementation of the program activities commences.

-Replacement cost: means replacement of assets with an amount sufficient to cover full cost of lost assets and related transaction costs. The cost is to be based on Market rate (commercial rate) according to Rwanda law for sale of land or property. In terms of land, this may be categorized as follows; (a) **-Replacement cost for agricultural land:** means the pre- program 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 costs of: (b) preparing the land to levels similar to those of the affected land; and (c) any registration and transfer taxes;

In determining the replacement cost, depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of the benefits to be derived from the Project deducted from the valuation of an affected asset.

-Host population—People living in or around areas to which people physically displaced by a project will be resettled who, in turn, may be affected by the resettlement.

-Involuntary resettlement—Resettlement is involuntary when it occurs without the informed consent of the displaced persons or if they give their consent without having the power to refuse resettlement.

-Land expropriation—Process whereby a public authority, usually in return for compensation, requires a person, household, or community to relinquish rights to land that it occupies or otherwise uses OD 4.30—The World Bank Group Operational Directive on Involuntary Resettlement. OD 4.30 embodies the basic principles and procedures that underlie IFC's approach to involuntary resettlement associated with its investment projects.

Stakeholders—Any and all individuals, groups, organizations, and institutions interested in and potentially affected by a project or having the ability to influence a project.

CHAPTER 1. INTRODUCTION

This document presents the Resettlement Action Plan (RAP) for the Mwache Dam Multipurpose Development Project (=the Project). The Project will affect communities in the vicinity of the Project site, the Mwache River immediately downstream of the proposed dam. The RAP has been established in order to ensure that any economic or physical displacement resulting from the Project, whether permanent or temporary is undertaken in a socially responsible manner and according to good international practice. Through the RAP, the Project will apply the relevant national legislations of Kenya's well as the relevant World Bank Policies:

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

1.1. STRUCTURE OF RAP

The RAP has been developed and the overview of outline is described in **Table 16** below

Table 16. Overview: Contents of the RAP

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

1.2. PROJECT INFORMATION

Kenya's people and the economy are highly vulnerable to erratic climatic patterns and limited water availability due to their reliance on key sectors (agriculture, tourism, hydro-energy, etc.) that depend on rainfall and water availability. In the last two decades from 1992-2012, Kenya tops Africa in terms of people affected by droughts (~46m people) and stands fifth in terms of those affected by floods (~2.8m people) in the same period. Kenya has limited freshwater endowments and is classified as a chronically 'water scarce' country in absolute and relative terms. It faces the additional challenge of high inter-annual and

intra-annual rainfall variability. Climate variability and hydro-climatic shocks (droughts and floods) impact disproportionately on the poor, and climate change is projected to exacerbate existing climate risks and water resource constraints. Kenya has yet to adequately manage its highly variable hydrology to improve climate resilience, as evidenced in decades-long underinvestment in water infrastructure.

The development and management of water resources in Kenya is based on the view that water is a social good and is a catalyst for economic development. The current access to clean water in the country is estimated at about 90% in urban areas and approximately 44% in the rural areas while the national average stands at about 57%. At the same time, provision for safe sanitation stands at a national average of 80% (95% in urban areas and 77% in rural areas). The Government of Kenya (GOK) has recognized the need for comprehensive institutional reform and increased investment in the water and sanitation sector in order to remove bottlenecks in its overall program to alleviate poverty and create employment and wealth.

The government has planned a large-scale water investment program to address these challenges and to close the massive water infrastructure gap that has been estimated at US\$ 5-7 billion. This is supported by strong institutional and legal structure that aligns the water sector to the Constitution of Kenya, 2010 (with a Water Resources Bill being prepared to fit with the new devolution principles). The government has requested that the World Bank support these ambitious plans for the water sector through a long-term, transformational program aimed at building water security and climate resilience for economic growth. The Kenya Water Security and Climate Resilience Program responds to this need, and is an integral element of the 2010-2013 Country Partnership Strategy. The first phase of this program was approved on June 18, 2013.

The Water Security and Climate Resilience in the Coastal Region herein referred to as *“the Project”* is centered around the Mwache Multipurpose Dam and related water supply and irrigation components. The Project was identified as a priority project in Vision 2030 and is included in the Water Supply Master Plan for Coast/Mombasa prepared for the Coast Water Services Board (CWSB) with funding from the World Bank/French Development Agency (AFD) Water and Sanitation Service Improvement Project (WaSSIP).

1.3. JUSTIFICATION FOR PROJECT

Kwale and Mombasa Counties is provided water from four sources including Baricho Water Works in Malindi District providing 47,000 m³ /day), Mzima Springs (providing 35,000m³/day, Marere River (bringing in 6,900³ per day) and Tiwi boreholes (producing 3,900³ per day). The sources provide only 35% of the total water demand of the city. The total demand for Mombasa City is estimated about 206,000m³ per day but only 92,800m³ per day is available). There is also significant unaccounted for water (ufW) arising from poor integrity of the distribution network, illegal connections and poor tracking of accessibility. There is, therefore, a strong need to supplement the available water to meet the demand. The community at the project area relies on the limited connections from the Mzima Springs pipeline and to a few communal water points that is hardly enough to meet

their requirements. It is hoped that the proposed project will be able to supply water to residents of Kwale County and further supplement the water supply into Mombasa County.

The total water demand for the Coastal region has been projected at 364,243 m³/d for 2015, and is expected to more than double by 2035 (887,253 m³/d). Currently, the Coastal region shows a water supply deficit of about 215,043 m³/d. The situation is particularly critical in Mombasa, where the existing supply satisfies only 30% of the demand.

Mombasa City and its surrounding environs is provided water from four sources including Baricho Water Works in Malindi District providing 47,000 m³ /day), Mzima Springs (providing 35,000m³/day, Marere river (bringing in 6,900³ per day) and Tiwi boreholes (producing 3,900³ per day). The sources provide only 35% of the total water demand of the city.

The coastal water supply investment plan and prioritization of Mwache

A Water Supply Master Plan study for the Coast/Mombasa was carried out under the Water Supply and Sanitation Improvement Project (WaSSIP), financed jointly by the World Bank and AfD. This and other studies have confirmed that the Coastal region has water resources available to satisfy the water demand of the region at least until 2035. Those studies have also confirmed that the Mwache Multipurpose Dam is a priority source of water to meet demand and increase water security for Mombasa.

1.4. OBJECTIVES OF THE RAP

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

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

1.5. GUIDING PRINCIPLES FOR THE RAP

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

- *Involuntary resettlement and land acquisition will be avoided where feasible, or minimized, where it cannot be eliminated.*

- *Where involuntary resettlement and land acquisition are unavoidable, resettlement and compensation activities will be conceived and executed as sustainable development programs, providing resources to give PAPs the opportunity to share project benefits.*
- *PAPs will be meaningfully consulted and will participate in planning and implementing of Mwache Multipurpose Dam Project.*
- *PAPs will be assisted in their efforts to ideally improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or levels prevailing prior to the beginning of the project implementation, whichever is higher.*
- *Measures to address resettlement will ensure that project affected people are informed about their options and rights pertaining to resettlement, are included in the consultation process and given the opportunity to participate in the selection of technically and economically feasible alternatives. They will also be provided prompt and effective compensation at full replacement cost for losses of assets and access attributable to the project investments.*
- *Projected affected persons if resettled will be supported to integrate economically and socially into host communities so that adverse impacts on host communities and vice versa are minimized. To this end, appropriate patterns of social organization will be promoted and existing social and cultural institutions of PAPs supported to the greatest extent possible.*
- *This RAP applies to all PAPs regardless of the total number affected, the severity of the impact and whether or not they have legal title to the land. Informal or customary tenure is to be treated in the same manner as formal, legal titles.*
- *All PAPs will be (have to be) identified and recorded as early as possible, preferably at project investment identification stage, in order to protect those affected by the project and prevent an influx of illegal encroachers, squatters, and other non-residents who will wish to take advantage of such benefit.*
- *Particular attention will be paid to the needs of vulnerable groups among those displaced; especially those below the poverty line, the landless, the elderly, women and children, orphans, marginalized groups and the ethnic minorities or other displaced persons who may not be protected through the Kenyan laws. The objective is to provide whatever additional assistance may be necessary to restore pre-project living standards.*
- *The compensation of the PAPs must be completed prior to the implementation of Mwache Multipurpose Dam Project.*

1.6. STEPS UNDERTAKEN DURING RAP PREPARATION

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

1.6.1 Project Social Documentation

This RAP has been prepared for submission within the framework of the KWSCR/PF that includes the social documentation identified below:

- This RAP, which describes the measures that will be taken to address displacement impacts entailed by the construction and operational phases of the Project
- A Socio-Economic Baseline Report (SEBR), which provides a detailed description of the socio-economic situation prevailing in the Project area at the time of undertaking the ESIA, and which was appended to the ESIA,
- A Social Management Plan (SMP), which provides an assessment of social and economic impacts, a description of proposed mitigation measures and an action plan, which presents the organizational and other arrangements proposed by Mwache Multipurpose Dam Project to implement the social and economic mitigation measures.

This document will be submitted to the World Bank, and to Kenya Government entities having jurisdiction over the management of social issues related to resettlement. The Environmental and Social Impact Assessment (ESIA) report for this project has already been submitted to the World Bank and the National Environment Management Authority (NEMA) for approval.

CHAPTER 2. THE PROJECT

2.1.GENERAL

The current access to clean water in Kenya is estimated at about 90% in urban areas and approximately 44% in the rural areas while the national average stands at about 57%. At the same time, provision for safe sanitation stands at a national average of 80% (95% urban and 77% rural). This makes Kenya a “chronically water scarce” country and results from the limited endowment of water of only 647m³ per capita and this is projected to fall down to 245m³ per capita by the year 2025, well below the internationally recommended minimum of 1,000m³/capita/year. Kenya’s Water resources are also highly vulnerable to climate variability often resulting into floods and drought with inadequate storage capacity, which limits the ability to buffer against the water shortage shocks.

A special focus is required on the economically critical Coastal region (the areas that were part of the Coast Province prior to devolution in 2013), and particularly on Kenya’s second-largest city, Mombasa. The current level of water infrastructure development is not in tune with the envisaged economic potential of the Coastal region. There is an obvious water infrastructure deficit, dissipating the impacts of other on-going and planned flagship projects unless action is taken now.

Among the worst hit by water shortage is the greater Mombasa and Kwale Counties that receives annual average rainfall of between 500mm – 600mm per year, increasing in the higher altitude zones. Divisions in Kwale County get an annual average rainfall of 500mm per year that is also unevenly distributed over time with long periods of dry weather. As a result, sources of water are unreliable, far apart and of poor quality. Residents of Kwale County are forced to walk long distances (5 – 10km) in search of water, hence wasting significant economic time and energy in addition to poor hygiene. Seasonal rocky rivers that flow with water only during the rains and originate from the highlands are supplemented with shallow wells (usually with unclean water) and stagnant water ponding in the dry riverbeds after rains.

The National Policy on Water Resources Management and Development focuses on streamlining provision of water for domestic use, agriculture, livestock development and industrial utilization with a view to realizing the goals (among them Goal No. 7) of the Millennium Development Goals (MDGs) as well as the Kenya Vision 2030. Mwache Dam has been identified under the Kenya Vision 2030 as one of the flagship projects. Following feasibility and social baselines studies covering both Counties, it was established that water is a priority to all the area residents in terms of livelihoods and social requirements.

Harnessing of the fluctuating flows in Mwache River and the seasonal waters from its tributaries would complement water supply for Mombasa County, and provide water for domestic and commercial use in Kwale County included in the short term limited irrigated farming and local livestock requirements.

Mwache Multipurpose Dam Project herein referred to as “*the Project*” includes a dam located in Kwale County along Mwache River as described below. “The project” further includes other components namely, water supply and sanitation infrastructures to serve Mombasa and Kwale County and finally an irrigation component to provide water for irrigated farming in Kwale County. The objectives of the Project include the improvement of the living standards of Kwale and Mombasa County residents through Poverty Alleviation and Sustainable Development. A large-scale multi-purpose water reservoir will be created to cater for public, domestic, commercial and industrial water supply for both Counties and a pilot 100-Ha demonstration irrigation (Kwale) component in order to effectively contribute towards regional and national socio-economic development.

2.2.PROJECT LOCATION

The Mwache Multipurpose Dam project is located in Fulugani and Miyani areas of Kasemeni Division of Kinango District. The northern areas of Mwache river stream falls in Mazeras sub-location and Kasemeni location while the southern side is in Rombo Location and Kinguluni location while the upstream zones are in Mwatate location of the same Division. The catchments, however, extends far to the west, northwest and southwest. The location coincides with 3o 59’ 12”S and 39o 31’ 07”N on a straight stretch of the river before discharging into the ocean via Mwache Forest. The location is off Mazeras about 22km from the City of Mombasa bordering the Indian Ocean to the east at approximately 10km from the main Mombasa – Nairobi highway. The **Table 17** below presents the administrative areas of Kinango District:

Table 17. Project Administrative Location Details

Division	No. of Locations	Name of locations	No. of Sub locations	Sub	Are (Km)
Kinango	3	Kinango, Puma, Vigurungani	6		1060.8
Ndavaya	1	Ndavaya	4		555.9
Kasemeni	5	Kasemeni, Mwatate, Mwavumbo, Mtaa, Gandini	13		562
Samburu	5	Samburu, Taru, Chengoni, McKinnon Road, Makamini	5		1803.2
Total	14		28		4011.7

2.3.PROJECT FEATURES

1. Dam

The proposed dam is a concrete gravity dam with height of 77.9m-crest length of 425 m and with a reservoir capacity of 118 million m³.

2. Spillway

Spillway designed is an ungated ogee spillway centrally located. The crest of the spillway is kept at FRL (82.2 m). The length of the spillway is 194 m.

3. Diversion Works

The dam being concrete gravity dam, diversion of river water during construction will be the major issue.

4. Buffer Zone

The dam will also be provided with a tree buffer zone all around the inundated areas spanning at least 30m from the highest water level mark. This will be in compliance with the provisions of the Water Act 2002 and the Water Rules. The buffer zone, to be planted with indigenous trees and vegetation and an extension of Mwache Forest ecosystem, will provide protection to the water from surface runoff pollutants, siltation and also conserve water.

5. Water Treatment Plant

A water treatment plant would be constructed as a part of the project

6. Demonstration Irrigation Scheme

Development of Irrigated Agriculture and Livestock

This component would combine the development of irrigation infrastructure (check dam #2, gravity water distribution system to 100 Ha, and the on-farm irrigation system) with the initial implementation of the RAP, intensive training of farmers through participatory approaches, adaptive agricultural research introducing the new HVCs (with KARI support), a marketing study, the development of market linkages, strengthening of the irrigation service providers, formation, and capacity building for the irrigation water users' association (IWUA) as follows:

Irrigation infrastructure: The Demonstration (Pilot Irrigation) will include the construction of the Component 1 proposed check dam #2 of the designed Mwache Dam and the development of up to 100 ha of irrigation with gravity water. It would benefit up to 200 households for producing food crops for self-consumption as well as horticultural crops for the local and export markets. The component will start implementation in 2015-2016 and would be completed and commissioned in early 2015, about 2 to 3 years before impoundment in the reservoir³. Simple technologies including: dragline sprinklers, conventional hand-move sprinklers, hosepipe irrigation, bubbler irrigation, and drip irrigation will be tested with the proposed irrigated food and HVCs to be introduced, to demonstrate new practices and train farmers.

The demonstration component aims at identifying best intervention strategies for natural resource management and irrigation development, in preparation of the implementation of

³ Detailed development of the main irrigation area, up to a total of 2 000 ha, would capitalize on the findings of the Pilot review by the end of 2017, after two full years of operation of the Pilot area.

KWSCR-2 enhancing the impact of the project. The demonstration irrigation scheme will advance the construction of the check dam #2 of Component 1, and initiate implementation of Components 2 and 3. With a water storage capacity of 1.2 million cubic meters (MCM) the check dam will allow starting irrigation activities about 3 years before the up to 2,000 additional ha will be made available.

7. Water Supply and Sanitation Infrastructure

The objective of this sub component is to enable Kwale County to increase access to safe water service in urban and rural areas.

8. Sustainable Livelihoods Improvement

This activity seeks to improve incomes in Kwale County overall, through support of community-driven development activities that provide sustainable livelihood support. This activity is intended to improve sustainable livelihood paradigms and project benefit sharing for the largely rural communities in Kwale County. It will also focus in developing alternative livelihood activities for communities currently dependent on the unsustainable use of natural resources. As such, it will focus on income-generating activities that also support water security and climate resilience in the county. These could include the development of village-based manufacturing capacity for items such as water source protection, low-cost irrigation and agricultural water management, crop cultivation in zai pits, production value addition, composting, establishment of tree nurseries (for fruit and woodlots), sustainable brick making, development of alternative energy products, improved cook stoves, bee keeping, household-level pond aquaculture, modern livestock management, etc.

2.4.CONSTRUCTION PERIOD

2.4.1 Construction Areas

The dam construction including the reservoir and 100 Ha demonstration irrigation area will affect land in the project area. The following **Table 18** summarizes land area required for the construction site;

Table 18. Areas Needed for Construction

Description	Area (Ha)	Status
Diversion channel and dam construction Area including reservoir and buffer zone		Permanent
Demonstration Irrigation Area	100	Permanent
Deposit Area (soil, rock)	Unknown	Permanent
Constriction camp	Unknown	Temporary
Borrow area and quarry	Unknown	Temporary
Spoil disposal area (rock soil) to be re-used	Unknown	Temporary
Concrete blasting and rock crushing	Unknown	Temporary
Total		

2.4.2 Construction Methods

The construction of the Project does not involve unusual or special construction methods. It deals mainly with rock excavation, back filling or disposal of excess materials, crushing and screening various types of aggregates, formwork placing and dismantling, reinforced steel placing, supplying and placing concrete, structural steel erection, architectural works and finishing.

2.4.3 Construction Workforce

Current estimates show that the Mwache Dam Multipurpose Project will create up to about 500 temporary jobs during the construction period. About 10% of the workforce is expected to be Third Country Nationals. The overall duration of the construction period is estimated to be about 4 years. There will be in total 1,400,000 person-hours divided into two main contracts: the civil works contract and the mechanical works contract.

2.4.4 Project Development Schedule

The following general schedule and order of development is proposed:

Table 19. Projected completion of works in Mwache Multipurpose Dam Project

Activity	Completion Time
Construction of Dam	July 2016-July 2020
Construction of Check Dams	July 2015-July 2016
Full operation of Dam	July 2020
Full operation of irrigation scheme	July 2016

CHAPTER 3. SOCIO-ECONOMIC BASELINE CONDITIONS

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

3.1.SUMMARY OF SURVEY METHODOLOGY

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

1. Establish a robust characterization of general pre-project socio-economic conditions against which future changes can be measured, and
2. Enable the following key issues to be addressed during project implementation:
 - Issue No. 1: Physical and economic displacement of PAPs from the proposed multipurpose dam plant site; and irrigation (demonstration) site
 - Issue No. 2: Loss of areas/fields used for residential housing, commercial enterprises, and cultivation) due to exclusion from accessing the affected areas.
 - Issue No. 3: Effects from an influx of migrants to the area, anticipated as a public response to perceived economic opportunity, leading to a number of issues including the following:
 - Inflation and resulting social tension due to economic disparities
 - Increased social pathologies such as crime and prostitution
 - Decreased access to existing services and infrastructure
 - Issue No. 4: Increased risk of STDs including HIV/AIDS as a result of increased movement through the project area, especially from truck traffic during the construction.
 - Issue No. 5: Economic marginalization of resident population if skilled labor and professional positions are assigned to a better-educated group of non-residents.

The fieldwork effort was carried out by a team of social scientists under the direction of the Team Leader (Mark Owuondo). The survey team employed the following methods:

- Quantitative household survey
- Participatory Rural Appraisal (PRA)
- Focus Group Discussions
- Key-Informant Interviews

Applying this suite of methods assures that several distinct perspectives are offered on the socio-economic conditions in the Mwache Project area and that a mix of both qualitative and quantitative results is produced. All villages in the project site were included in the baseline survey. In each of these villages all households were identified and a random sub-sample was chosen for in-depth interview.

3.2.GENERAL BACKGROUND

The Mwache multipurpose dam project including the demonstration irrigation scheme is located in Fulugani and Miyani areas (Dam and Reservoir) and Pemba (Irrigation) of Kasemeni Division of Kinango Sub County. The northern areas of Mwache river stream falls in Mazeras sub-location and Kasemeni location while the southern side is in Rombo Location and Kinguluni location while the upstream zones are in Mwatate location of the same Division. The catchments, however, extends far to the west, northwest and southwest. The location coincides with 3° 59' 12"S and 39° 31' 07"N on a straight stretch of the river before discharging into the ocean via Mwache Forest. The location is off Mazeras about 22km from the City of Mombasa bordering the Indian Ocean to the east at approximately 10km from the main Mombasa – Nairobi highway.

The dam site is characterized with deep cliffs standing out to about 14m above sea level (~ 14m above riverbed). The area is mainly rural residential comprising mainly of villages or family homesteads. Despite the deep cliffs, there is notable number of residents undertaking limited farming along the river flood plains or grazing along the riverbanks while both banks of the river are characterized with limited farming. The land required for the dam will cover the buffer zones on both sides of the banks. The allowed buffer zones cover a minimum of 30m according to the Water Rules but will effectively vary with topography and the surrounding land use practices. While the dam has been designed to a water crest level of 86 m, the total area acquired will be 100 m to allow for adequate buffer area that will be planted with trees. This will also be an extension of Mwache forest system.

3.3.OVERVIEW ON ADMINISTRATIVE UNITS

The tables below highlight the administrative units of the project site including the dam areas and demonstration irrigation scheme.

Administrative Units

Kwale County has 3 administrative districts, namely:

1. Kinango
2. Matuga
3. Msambweni.

Electoral Units

The County is divided into 4 constituencies and 20 wards. The constituencies are:

1. Matuga
2. Msambweni
3. Kinango

4. Lunga Lunga

Table 20. Dam and Reservoir Component

County	Sub-County/District	Location	Division	Villages (17)
Kwale	Kinango	Kinango	Kasemeni	

Table 21. Demonstration Irrigation Component

County	Sub-County/District	Location	Division	Village (1)
Kwale	Kinango	Mwatate	Kasemeni	Pemba

Kwale County Demographic Profile

1. Population: 649,931 (Male – 49 %, Female – 51 %)
2. Population Density: 79 people per Km²
3. National Percentage: 1.7 %
4. Annual Growth Rate: 2.6 %
5. Age Distribution: 0-14 years (47.2 %), 15-64 years (49.4 %), 65+ years (3.4 %)
6. Number of Households: 122, 000

Source: Commission for Revenue Allocation

Demographics in Project Affected Division

The population of the Division of Kasemeni is predominantly rural in character and the main economic activity of the area is subsistence farming. According to the 2009 Population Census (KNBS) Kasemeni Division had a population of 78,859 comprising of 12,902 households. Kasemeni Division is an administrative unit within Kinango District and the proposed Dam Project falls within the areas of Mazeras, Chigato and Mnyenzi sub-locations. The administrative setting of the division and the population (2009) distribution is as shown in **Table 22** below:

Table 22. Population by Administrative Unit (Kasemeni Division)

Sub-location	Population (2009)	Area (Sq. Km)	Density/pp (sq. km)	No. of Households
Mazeras	8705	15.5	560	1680
Chigato	4022	17.8	226	668
Mnyenzi	8292	29.0	286	1363
Mwatate	10,791	41.1	262	1601

Demographics in Project Affected Areas

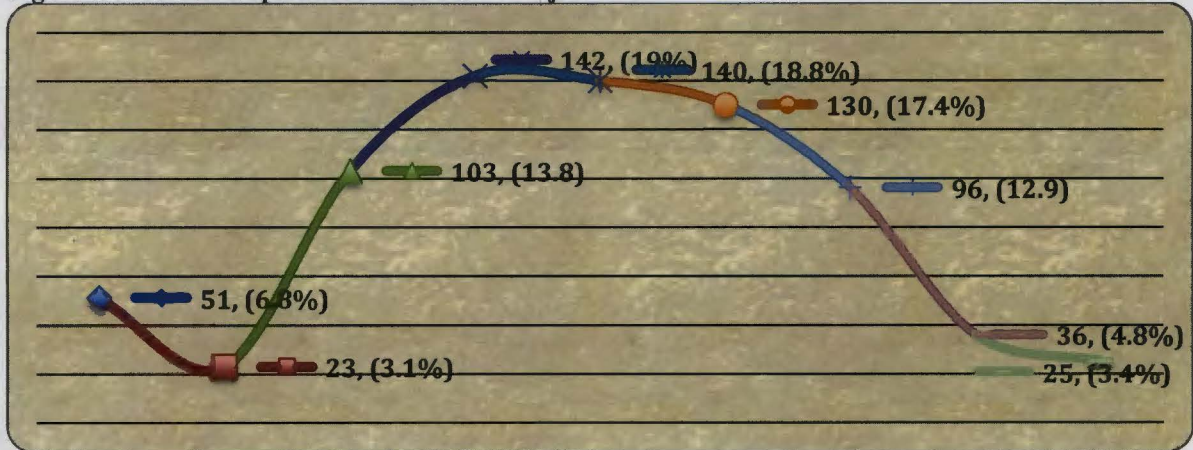
The total population in the project areas where economic and physical displacement is expected has been estimated during this baseline study at 746 households estimated to be 4,250 persons. Of all the respondents, 79.6% were male while 20.4% female.

Table 23. Gender of Respondents

Gender	Number of Respondents	Percentage
--------	-----------------------	------------

Male	594	79.6
Female	152	20.4
Total	746	100

Figure 3. Years of Respondents Domicile in Project Area



The **Figure 3** above show that majority of the respondents have lived in the area for more than 40 years with other having lived in the area for over 60 years. Majority of the respondents are residents of the villages in the project area by birth (78%) followed by 16.2% who are residence as a result of marriage.

Table 24. Reasons for Living in Current Village

Reasons	Numbers	Percentage
Marriage	121	16.2
Born in village	584	78.3
To look for employment	1	0.1
To look for land	15	2
Trade activities	8	1.1
No Response	17	2.3
Total	746	100

The households had an average of 6.4 members, with a mean of 1.84 adult males and 1.88 adult females. 80% of the household heads are married and living together with their spouses, 3% are married but the spouses live away, 7% are widows/widowers, 9% have never been married.

3.4.AGRICULTURE AND LAND TENURE

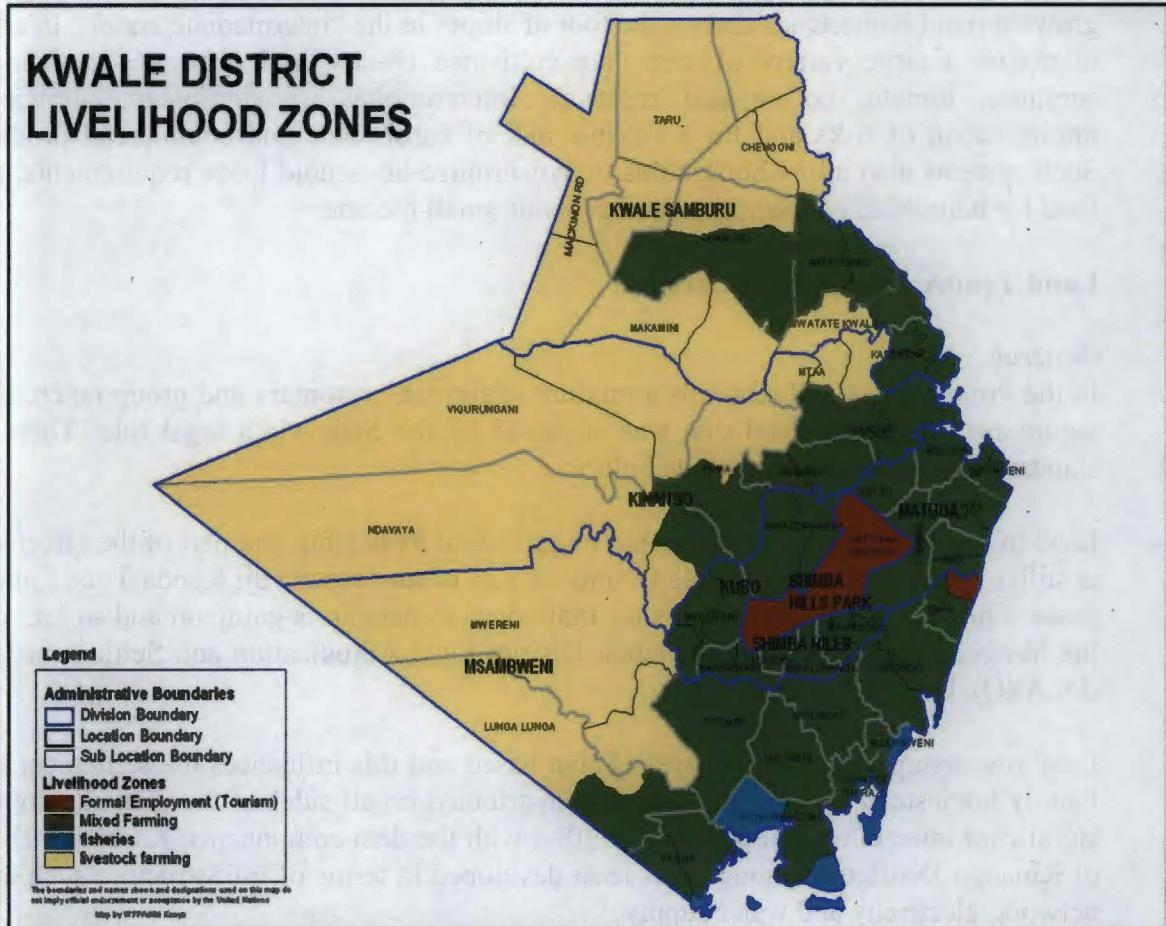
3.3.1 Agriculture and Animal Husbandry in the Project Area

General

Large part of the administrative area is rural with the dominant activity being subsistence farming that is entirely dependent on the rainy season. The proposed dam area is described as semi-arid and receives approximately 500-1000mm of rainfall per year spread through

two seasons in a year. Available data shows that the rains are spread over very few days in the season. Land use is subsistence farming with very low land productivity value, due to poor rainfall, poor soil quality and the people's culture.

Figure 4. Livelihood Zones in Kwale County



Source National Drought Monitoring Authority 2013

According to the **Figure 4** above, the project area is suitable for mixed farming including livestock farming and the livelihood restoration program is proposing initiatives aligned towards crop and livestock production as seen in chapter for livelihood restoration.

The prevailing farming system in the Project area is mixed farming system (crops and livestock) based on family labour on small plots, using traditional tools (hoe and machetes). Agricultural production is essentially by smallholder farmers who cultivate on average 1.41Ha of land with simple farm implements and very low inputs use, growing traditional food crops primarily for self-consumption and secondarily for marketing, and keep small numbers of livestock. Production is characterized by organic system and involves the combination of food, fodder and tree crops.

Food crops account for 92% of the cultivated area and 95% of affected household source their food primarily from their own cultivation. There are no High Value Crops (HVC) grown by the farmers.

Maize is the key staple as in other areas of Kenya. In the Project area, maize is typically grown around homesteads and on the foot of slopes in the “intermediate zone”. In addition to maize, a large variety of crops are cultivated (beans, maize, peas, sweet potatoes, sorghum, tomato, coffee and cassava). Intercropping is widespread, allowing for minimization of risks and for a flexible mix of subsistence and commercial production. Such systems also allow households to synchronize household labor requirements, access food for household consumption, and generate small income.

Land Tenure in the Project Area

General

In the Project area, land tenure is a mixture of formal, customary and group ranch. Formal tenure corresponds to land that was allocated by the State via a legal title. There is no standard size for formally allocated plots.

Land in the area is not fully registered to individual ownership and part of the affected land is still a Trust Land under Kwale County as part of the larger Miji Kenda Trust Land. The process of adjudicating land rights for individual ownership is going on and so far, an area list has been prepared by the Kinango District Land Adjudication and Settlement Officer (DLASO), but not finalized.

Land ownership in the project area is clan based and this influences the settlement trends. Family homestead clusters are generally distributed on all sides of the dam site creating a significant interaction and potential conflict with the dam components. Kasemeni Division of Kinango District is among areas least developed in terms of infrastructure such as road network, electricity and water supply.

More recently, there has been a large effort to sanction customary occupation by a formal, registered title and corresponding cadastral mapping. This process is now almost completed in and all customary landowners are likely to be turned into formal holders under a private land ownership regime. According to the enumeration exercise, 61% of the households interviewed already have title deeds.

Table 25. Tenure Regime

Tenure regime	Number	Percentage
Titled property	455	61
Non titled property	108	14.5
Rental or other occupancy regime other than ownership	18	2.4
Other specify	1	0.1
No response	164	22
Total	746	100

As shown in the table below, most of the land that will be affected as a result of the project is located in the lowlands i.e. close to the Mwache River banks. The population generally constructs structures/residential houses on top of the hill, leaving the intermediate and lowland portions of their land for agricultural activities including grazing for animals. This therefore means, a limited number of structures will be affected, primarily those households within the highest water-mark (reservoir).

Table 26. Location of the Land Affected

Location of the land	Number	Percentage
Low land	427	57.2
Intermediate	50	6.7
Hill	26	3.5
No Response	243	32.6
Total	746	100

Table 27. Current Usage of Affected Land

Current usage	Number	Percentage
Household residence	77	10.3
Business	10	1.3
Agriculture	425	57
Pasture	114	15.3
No Response	120	16.1
Total (n)	746	100

Average Size of Household Land Holdings

Land distribution and tenure in the Project affected area have been constrained by a combination of local demographic dynamics, historical context, legal framework, market situation and institutional capacities. The land holding sizes are on average of 1.41 Ha of arable land per household.

3.5.LIVELIHOODS

The Table below presents an overview on livelihoods in the Project area. The primary occupation of the PAPs is farming (crops and livestock keeping) accounting for over 50% followed by traders (10.1%). There are a few PAPs who are civil servants and others are engaged in fishing and craftsmanship. Majority of the PAPs have no other form of occupation (secondary) as shown in **Table 29**.

Table 28. Primary Occupation of the Respondents

Primary Occupation	Percentage
Builder	3.3
Civil servant	3.6
Craftsman/Woman	6.2
Farmer	51.8
Fishing/fish farming labor	2.2
No Response	5.3
Non -employed home helper	3
Others	9.9
Student	0.4
Trader	10.1

Without occupation/employment	6.2
Total	100

Source: TTR 2014: RAP

Table 29. Secondary Occupation of the Respondents

Secondary occupation	Number	Percentage
Farmer	58	8.0
Fisherman or fish farmer	5	0.7
Builder	11	1.5
Agricultural worker	2	0.3
Craftsman/woman	10	1.4
Non-employed home helper	12	1.6
Trader/Business	41	5.5
Civil servant	8	1.1
Without occupation/employment	2	0.3
Other	20	2.7
None	576	77.2
Total	746	100

Source: TTR 2014: RAP

Most of the livelihood activities in order to provide additional income rely on land resources, such as:

- Farming and livestock production
- Fishing in Mwache River
- Sand Harvesting
- Stone Quarrying

Fishing

Fishing activities are mainly practiced in Mwache River. A tiny minority of PAPs in the Project area performs fishing as a primary activity especially during low agricultural seasons as a supplement to their livelihood.

Sand Harvesting and Stone Quarrying

The youth exploit sand from the riverbeds as well as mining of stones as a source of income with the construction industry in Mombasa providing a suitable market for these building materials.

Water Kiosks

Women in villages where there is piped water have established water kiosks (women groups) and engage in water trade.

3.6.ECONOMY AND EMPLOYMENT

The economy of Kasemeni Division, particularly in the dam area is mainly dependent on farming for domestic needs, with a few other limited forms of formal employment. The non-farm activities include sand harvesting for sale outside the study area particularly in

Mazeras town, quarrying of building stone at the river bed of River Mwache, fabrication of roofing materials (makuti) for local use and export and limited fishing in River Mwache.

There was no evidence of commercial agricultural farming of food crops, dairy and ranching or poultry keeping. The area is described as a food deficit area that is often dependent on government food relief for most of the seasons. The dominant cash crop trees grown in the area are cashewnut, coconut and mango. The general area has a poverty index level of 72-75%, which is high as compared to the national average.

The farm holdings in the study area are small in size; majority of the farms are approximately 1.41Ha in area. The process of land registration is on going and once complete, land utilization patterns will change with diversification into growing of perennial crops with high value returns replacing the subsistence farming. Majority of the households enumerated in the project area have more than one parcel of land in their name that is awaiting formal registration to individual ownership.

3.7. INCOMES AND EXPENDITURES

Monetary Income

Note: According to interviews with resettlement committees, about three quarters of land users sell their products on the market. Obtaining data for income and expenditures for a society essentially based on subsistence and barter is very difficult.

The main income source is agricultural related activities (53.2%) including fishing which accounts for 0.7% as an income source. Economic support from Non Governmental Organizations (NGOs) and the GoK account for 12.6% of the PAPs sources. The project area receives food rations from NGOs and the government due to the periodic famine caused by inadequate rainfall that affects crop production.

Table 30. Main Source of Income

Activity	Frequency	Percentage
Agriculture	406	54.4
Fishing and/or fish farming	5	0.7
Handicraft	21	2.8
Construction	22	2.9
Property rental	3	0.4
Commerce	29	3.9
Civil service	19	2.5
Pension	5	0.7
Economic support: Family or friends	8	1.1
Economic support: Government or NGO	7	0.9
Other	94	12.6
No response	127	17
Total	746	100

The table below shows the income ranges of the PAPs for the household head with only 17.4% earning between 100,001-500,000 annually. Income figures are unevenly distributed. Female-headed households have the smallest incomes.

Table 31. Annual Income of Household (Main Income for Head of Household)

Average income per year	Frequency	Percentage
None	14	1.9
5,000 and below	16	2.1
5,001 to 10,000	43	5.7
10,001 to 20,000	30	4
20,001 to 50,000	93	12.5
50,001 to 100,000	82	10.9
100,001 to 500,000	131	17.4
500,001 and above	26	3.4
No Response	311	41.7
Total	746	100

Table 32. Annual Income of Household (Spouse)

Average income per year	Frequency	Percentage
None	17	2.3
10,000 and below	21	2.7
10,001 to 20,000	5	0.7
20,001 to 50,000	28	3.8
50,001 to 100,000	22	3
100,001 to 500,000	3	0.4
No Response	650	87.1
Total	746	100

Agriculture accounts for the major source of non-cash income as shown above with maize being the crop cited as generating the most source of non-cash income.

Table 33. Sources of Non Cash Income for the Household

Name of product	Frequency	Percentage
Sorghum	9	1.2
Maize	144	19.3
Sweet potato	3	0.4
Beans	2	0.3
Peas	5	0.7
Cassava	22	2.9
Tomato	8	1.1
Coffee	4	0.5
Mango	3	0.4
Others specify	3	0.4
No Response	543	72.8
Total	746	100

The average yearly expenditure is Ksh 35,135 but varied greatly among the population. The median is approximately 44,132 Ksh, which includes 30% who indicated that they had no expenditures at all during the period concerned.

Food expenditure represents more than 71% of total expenditure. Maize, beans and peas alone accounts for more than 31% of total expenditures. Education and health expenditures represent respectively 14% and 2% of the total expenditure. The largest

percentage of non-food items is soap (2%) and fuel (1%). In terms of mode of payment, 98% of the expenditures are made in cash and 2% through barter (TTR, 2014).

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

Other expenditures include purchases of necessary items such as salt, soap, candles and payments for contract labor.

Sources of loans are very limited, especially, where 60% had no one from whom they could borrow money. When in need, many people sell their possessions, such as bicycles, livestock, or clothing; and then take on agricultural labor jobs to repurchase these items.

The most common household equipment is a mobile phone 76.4% followed by radio (60.6%), bicycle (32%), and television (27.9%).

3.8. POVERTY AND VULNERABILITY

According to the Commission of Revenue Allocation (CRA), Kwale County faces various challenges, which exacerbate poverty including;

- Land tenure
- Security
- Poor infrastructure development e.g. roads, electricity, water etc.
- Low agricultural production due to land tenure problems.
- Poor and undeveloped agricultural marketing.
- Poor agro-industry base.
- Yearly droughts due to rainfall inadequacy particularly in Kinango and Samburu divisions.
- Vagaries of nature of droughts and flood e.g. the El-nino phenomena.
- High population dependency ratio.

Poverty Situation

The Mwache Multipurpose Dam is located in Kinango District, which is one of the poorest districts of Kenya. Poverty is defined as the inability to afford daily basic needs to support life. This comprises food and non-food items (e.g. clothing, shelter and food), inability to access basic services (e.g. education, health, water and sanitation) and inability to access and control productive resources (e.g. land, capital, information, life skills, employment etc.). The poor see themselves as lacking opportunity to sustain life and being deprived of any voice, right and value in society. They associate their state of poverty with hopelessness, powerlessness, insecurity and lack of integrity.

Although smallholder 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. These include activities such as small-scale trade and the collection and sale of firewood, daily wage labor, etc.

In generally incomes are very low and poverty is widespread and deep in many parts of the project area. The housing structures depicts that 98% of the houses are traditional, an indicator of the poverty levels in the area. This is due to a combination of factors and causes such as;

- Low and dwindling resource base (land productivity, water resources, livestock, etc.);
- Backward technology,
- Low productivity and the subsistence nature of production;
- Limited access to public services and amenities; and
- Exposure to shocks and vulnerability (drought, human and livestock disease)

Agriculture (crop) and livestock keeping (livestock) are the base livelihood activity. Both heads of the households and other household members engage in wide ranging non-farm economic activities to provide for their families. Small-scale trade, fishing, sand harvesting, water vending and casual labor are amongst the most widely practiced non-farm livelihood activities in the households.

Table 34. Definition of Poverty Status

Indicator	Group 1 Wealthier Household	Group 2 Average Household	Group 3 Poorer Household
Cow ownership	>2	1 or sharing	None
Land size (ha)	>1	0,4-0,9	>0,4
Hire/Sale of Labor	Hire labor	Sell labor against cash income	Exchange labor for crops
Household Assets	Bicycle, motorcycle, cellphone	Shared with other households	Poor housing
Non agricultural income	Most of the year (>50%)	Seasonally	Agricultural labor for others
Production orientation	Surplus for market and/or commercial crops for sale	Grains for subsistence, beans and vegetable for sale	Only food for subsistence

Source: TTR: RAP based on results of social survey 2014

Based on these categories, 51% of surveyed households fall into the average category while 43% are poor and 6% in the “wealthy” category. The distribution is different if only female head of households are considered.

There is also widespread food insecurity as a large majority of farmers in Kasemeni Division report facing occasional periods of food shortages.

3.9. COPING STRATEGIES

In addition to on-farm work, the poor part of the population goes for work in nearby towns especially in Mombasa. Also, poorer households opt to produce food crops selling a portion of their harvest to finance essential non-food items or preferred food items.

Poorer households also do not source all of their food from their own production alone. They also receive beans, cassava and maize as in-kind payment for working on better-off household's farms

3.10. VULNERABLE GROUPS

People who by virtue of gender, ethnicity, age, physical or mental disability, economic disadvantage, or social status may be more adversely affected by the project/ by displacement than others and who may be limited in their ability to claim or take advantage of resettlement assistance and related development benefits. Vulnerability is considered with regard to the Project context.

3.9.1 Identification of Vulnerable Groups in the Project Area

Vulnerable groups were identified based on

- Consultations by the consultants (2014), aiming at the identification of vulnerable people
- Interviews with officials in village and district officials

Note: Individual support measures for vulnerable people will be identified early in RAP implementation (start of year 0). The respective consultations will be undertaken under the lead of PIU, through local resettlement committees.

Female-headed households

17% of heads of household are women. Other than land related issues, female-headed households face additional constraints, such as difficulties to engage in certain farming operations because of lack of physical strength and inadequate representation of their interests in community structures and farmers' organizations. They are likely to be among the poorest households (TTR 2014).

Household heading orphans

Household heading orphans are considered as vulnerable. They usually have no access to education, due to family obligations. Hence, their capacity to benefit from training measures is considered to be limited as is their capacity to develop alternative livelihoods.

According to the results of the enumeration in the project-affected area, 67 (9%) orphans heading households were documented as affected and 127 women headed and 280 elderly headed households. However, during RAP implementation, special attention will be given to the identification of orphan headed, women headed and elderly headed households.

Table 35. Members of the Household Heading the House

Head of household	Yes		No		No response		Total	
	#	%	#	%	#	%	#	%
Child headed household	67	9	609	81.6	70	9.4	746	100
Female headed household	127	17	548	73.5	71	9.5	746	100
Elderly headed household	280	37.5	385	51.6	81	10.9	746	100

Loss of Resource Access-Sand Harvesting and Stone Quarrying

Young people rely on the riverbed to exploit sand and stones for construction. They would be vulnerable in the project context, due to the loss of land for sand harvesting which would be inundated and hereby the loss of their main livelihood asset.

HIV and AIDS affected households

HIV-and AIDS affected households are an important subset of households with chronically ill members, who can face moderate to severe labour constraints, fall sick often and face high medical bills, are under threat to lose household assets and access to factors of production, and are often stigmatized in their community. In the project context, HIV-and AIDS affected households are expected to have a limited capacity to fully benefit from livelihood restoration programs, unless they are provided with special assistance.

Elderly, Disabled or infirm Persons

Elderly, infirm or ill people might have limited access to project related information, unless they are considered with specific measures. **112 HHs** according to the enumeration have persons with disability are disabled and or chronically ill with **154 HHs** having persons over the age of 65 hence elderly as shown in the Tables **36** and **37** below.

Table 36. Number of Household Member(s) Who Are Disabled or Chronically Ill

Number	Frequency	Percentage
None	464	62.2
1	58	7.8
2	51	6.8
3	3	0.4
No Response	170	22.8
Total	746	100

Table 37. Number of Individuals More Than 65 Years Old in the Household

Number	Number	Percentage
None	415	55.6
1	90	12.1
2	62	8.3
3	4	0.5
4	2	0.3
No Response	173	23.2
Total	746	100

Women and children

Women and children might be at risk of being dispossessed of their immovable and productive assets as a result of the compensation process that may solely benefit the male household head.

3.11. INFRASTRUCTURE**3.10.1. Health**

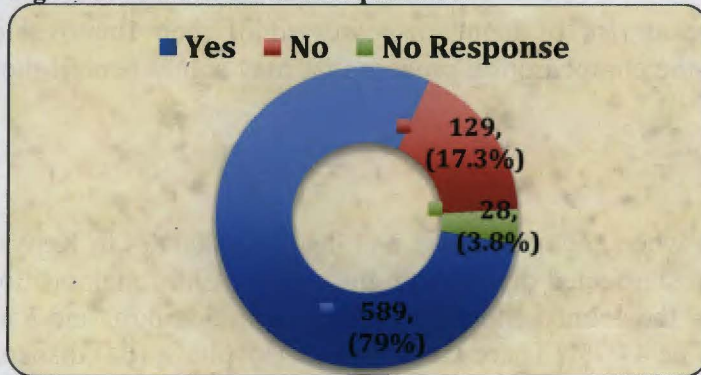
Kwale County has some of the worst socioeconomic and health indicators in Kenya with Kinango and Samburu as the most affected divisions in the county. Child malnutrition is a serious public health problem in the county. Stunting prevalence in Samburu and Kinango Divisions has been estimated to be 44.7%. There are 2 District Hospitals, (64) dispensaries (6) Health Centres (17) and Medical Clinics.

- Doctor to Population Ratio: 1:82,690
- Infant Mortality Rates: 70/1000
- Prevalent Diseases: Malaria, Skin Disease, Diseases of the Tract System and HIV/AIDS.

Health services in the project area and the environs are poor. The main district hospital is in Kinango, a distance of 80kms on a poor road that is impassable during the rainy season. The nearest dispensary is at Mazeras along Mombasa road within the project area but its level of service is deficient and poorly staffed. The local community is therefore dependent on medical facilities in the City of Mombasa or at Mariakani. The former is 30km while the latter is 20km from the study area respectively. The road network is poor and impassable during the rainy season that impedes emergency cases. The health centre at Mazeras is understaffed in terms of qualified personnel and its workload is enhanced as it also handles emergency cases as a result of road accidents on Mombasa and Kaloleni roads. There was no evidence of private health clinics in the project area that were identified during the visits made for the household survey and the assets inventory.

The most common diseases are malaria, respiratory infections, diarrhoeal diseases, AIDS and diseases caused by malnutrition and nutrition deficiency.

The Duruma people who are the residents of the project area have a deep cultural knowledge on home based treatment with use of herbs for treating most of the diseases endemic in the area in lieu of conventional medicine. The different trees species found in the area have high medicinal value and processing of the herbs is an old tradition passed from generation to generation. This alternative medicine is important in their sustenance due to their low economic levels that excludes them from affording treatment in conventional medicine at hospitals and clinics.

Figure 5. Household with Mosquito Nets**3.10.2. Education**

The project area is characterised by insufficient teaching premises and personnel and above normal student-per-teacher ratios. Secondary and vocational education is very weak.

Kasemeni Division has 11 primary schools and 3 secondary schools. There are no institutions offering technical education and those interested in artisan and skills development have to enroll in facilities either in the adjacent Kaloleni area or in the City of Mombasa. The sub-locations of Mazeras, Chigato and Mnyenzi that are affected by the proposed dam have 6 Primary schools in close proximity to the dam but the schools will not be displaced by the dam activities. All the secondary schools in Kasemeni are at safe distance from the proposed dam development. The male/female student composition is fairly well balanced.

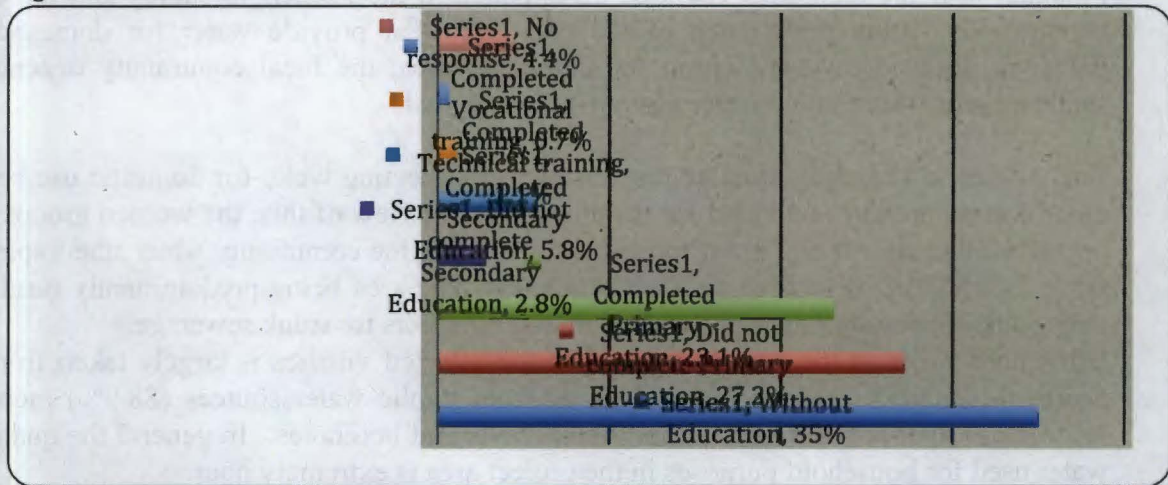
School enrolment levels appeared to be generally low and were attributed to acute unemployment and lack of household financial capacity while primary schools enrolments rose to over 50%, secondary schools and tertiary colleges is quite low (down to 3 -5%).

This contributes to very high illiteracy levels in the area. They said that children didn't want to learn due to lack of role models, poor influence and parental irresponsibility. It was pointed out that children from poor families were likely to repeat a grade, be expelled or suspended from school or drop out of high school due to financial problems. Marriage at young age and premature pregnancies are also indicators of poor school enrolment levels.

The gap in education among the male and female is more or less at the primary and secondary schools level and is exacerbated at the higher levels of learning. There is a high level of school drop-out rate among the girls than boys at the higher classes in primary and secondary schools. This is a cultural issue as there is high incidence of early marriages among girls to raise resources to support the families.

As shown in figure below, 35% of the household heads have no education, 27.2% did not complete primary education, while 23.1% have completed primary education. Only 5.8% of the household heads interviewed had completed secondary education.

Figure 6. Educational Level of the Household Head



Almost 40% of the household heads cannot read and write with more women being unable to read and write as compared to the men.

Figure 7. Household Heads Who Can Read or Write

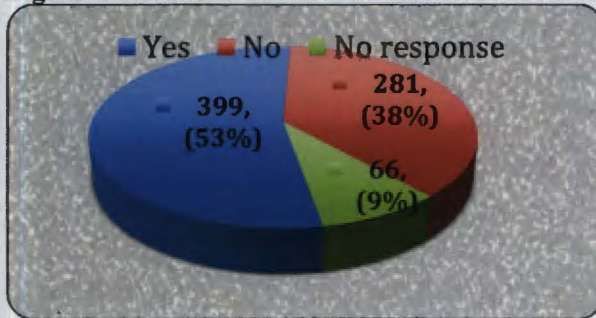


Table 38. Household Heads Who Can Read or Write Based On their Gender

Can read and/or write		Gender of the respondent			Total
		Male	Female	No Response	
Yes	#	353	45	1	399
	%	47.3	6	0.1	53.5
No	#	194	83	4	281
	%	26	11.1	0.5	37.7
No response	#	47	11	8	66
	%	6.3	1.5	1.1	8.8
Total	#	594	139	13	746
	%	79.6	18.6	1.7	100

3.10.3. Water and Sanitation

The project area is semi-arid and there are no permanent rivers flowing in any of the valleys. The local community depends on the water pools that are evident at the riverbeds of Mwache and Mnyenzi for both domestic needs and watering their livestock. However, there is a water pipeline that runs along the main Mazeras-Kinango road and a branch line to Bofu from Majengo junction. The other water branch line from Mazeras goes to

Fulugani near the dam site. The area investigated in the household survey and the assets inventory is within easy reach of the two river that provide water for domestic and livestock needs. However, within the command area, the local community depends on shallow wells where piped water has not been supplied.

The women in the study area are responsible for collecting water for domestic use besides other domestic chores and also for their livestock. In view of this, the women groups have organized themselves and are responsible for running the community water standpipes that serve as a source of income for the households. The area being predominantly rural with very scanty population distribution has limited prospects for trunk sewerage.

Household water in the project site and in the affected villages is largely taken from the nearby Mwache River (67.8%) as well as from public water sources (88.9%) including rainwater. Other sources include traditional wells and boreholes. In general the quality of water used for household purposes in the project area is extremely poor.

Table 39. Access to Drinking Water

Access to drinking water	Yes		No		No Response		Total	
	#	%	#	%	#	%	#	%
Traditional well a home	49	6.6	688	92.2	9	1.2	746	100
Borehole at home	19	2.5	718	96.2	9	1.2	746	100
House with a water tap	202	27.1	535	71.7	9	1.2	746	100
Access to public water taps outside the house	663	88.9	71	9.5	12	1.6	746	100
Access to water sources or borehole outside the house	43	5.8	694	93	9	1.2	746	100
Access to surface water	506	67.8	231	31	9	1.2	746	100
Rain water	520	69.7	213	28.6	13	1.7	746	100
Others	715	95.8	-	-	31	4.2	746	100

The sanitation of the project area is poor, as most of the households have no organized disposal system for the human excreta or other domestic waste. Out of the 746 households enumerated during the survey, 98.4% of did not have latrines in their compounds hence used the nearby bushes or public toilets. The topsoil in the study area are very shallow and this may be a contributory factor in the inability to dig pit latrines, culture notwithstanding.

The project in conjunction with other government agencies dealing with environment and sanitation will require undertaking educating the households for purposes of ensuring that the domestic waste from the households does not pollute the dam water.

Table 40. Access to Sanitary Facilities

Sanitary facilities	Yes		No		No response		Total	
	#	%	#	%	#	%	#	%
Flush toilets in the house	5	0.7	729	97.7	12	1.6	746	100
No Latrines in compound	734	98.4	-	-	12	1.6	746	100

Latrine	114	15.3	621	83.2	11	1.5	746	100
Public toilet outside the house	134	18	601	80.6	11	1.5	746	100
None	367	49.2	361	48.4	18	2.4	746	100

3.10.4. Energy

The project area is covered under the rural electrification project of the Ministry of Energy whose main priority is accelerate connection of power for domestic needs with special priority to schools and health facilities. The high voltage line supplying power on the national grid to Kinango and Kwale traverses the project area and some of the pylons will be subject to relocation as a result of impounding of the dam. None of the homesteads that were covered in the household survey were connected to power mains.

Majority of the local population rely on firewood and charcoal as source of energy for cooking and heating at home. Some families supplement their source of lighting and cooking with kerosene. The denudation of the tree cover evident in the project area is attributed to the pressure to provide for domestic needs for fuel amidst the ecological conditions are not conducive to the trees replenishing themselves.

Challenges to access energy include long distances to the sources for firewood and the escalating cost for kerosene and charcoal whose prices are beyond the income levels of the majority of the inhabitants. The project will be instrumental in developing technologies that are adaptable and affordable by the residents who are low incomes earners for their energy needs. These may include introduction of economic jikos, biogas digesters when the livestock farming gets established, use of solar technology and planting of trees in the homesteads to harvest for wood fuel and timber to name a few.

The PAPs use charcoal mostly for lighting as shown in the table below (48.5%) followed by Kerosene 33.1%.

Table 41. Type of Lighting in Households

Type of lighting	Yes		No		No response		Total	
	f	%	f	%	f	%	n	%
Electricity	9	1.2	725	97.2	12	1.6	746	100
Kerosene lamp	61	8.2	675	90.5	10	1.3	746	100
Charcoal	362	48.5	373	50	11	1.5	746	100
Kerosene	247	33.1	488	65.4	11	1.5	746	100
Firewood	160	21.4	575	77.1	11	1.5	746	100
Dead plants	6	0.8	729	97.7	11	1.5	746	100
Others e.g. Solar	2	0.3	619	83	125	16.8	746	100

Firewood and charcoal are the most used forms of energy for cooking 80.4% and 28.3%.

Table 42. Type of Cooking Energy in Households

Cooking combustible	Yes	No	No response	Total
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	#	%	#	%	#	%	#	%
Electricity	-	-	740	99.2	6	0.8	746	100
Kerosene	223	29.9	517	69.3	6	0.8	746	100
Charcoal	211	28.3	529	70.9	6	0.8	746	100
Gas	3	0.4	737	98.8	6	0.8	746	100
Firewood	600	80.4	140	18.8	6	0.8	746	100
Dead plants	25	3.4	716	96	5	0.7	746	100
Other	434	58.2	1	0.1	311	41.7	746	100

20% of households use charcoal and electricity while firewood still is the main source of energy for 80% of the residents in the village. Information and communication equipment are still limited.

3.10.5. Transport and Infrastructure

The project area is traversed Mazeras-Kinango road that will be affected by the dam submergence. The road network within the study area comprises of footpaths with a few of the footpaths being motorable. The geology of the area being mainly sandy soils makes movement easy since the main mode of transport other than the long distances to Kinango are the motorcycles that ply for hire. The roads of access are not well defined as the property boundaries are still in the process of demarcation as part of the process of land registration.

During the rainy seasons, transport along the main road to Kinango is interrupted when the Mwache River crossing is flooded. Other storms drain crossings are made of drifts that get flooded and blocks vehicular river crossings. Crossings at other points on Rivers Mwache and Mnyenzi are disrupted during the rainy season and make it difficult for the people to access education, health and other services including their shopping needs. The alternative is to travel longer distances to safe crossings or await the subsidence of the flooding rivers.

With the advent of mobile telephony and reducing costs for the sets, the project area enjoys good connectivity. Coupled with power distribution on most of the trading centres supplemented by solar technology, some of the services that would otherwise be alien in the area such as charging of the cell phone batteries and photocopying facilities are readily available in the project area. All the major telephone service providers are well represented in the area.

3.10.6. Markets

Domestic markets for crops are generally underdeveloped. Marketing chains are informal and often fragmented, with produce changing hands several times as it moves from farm gate to the final consumer. Farmers sell produce to rural assemblers at the farm gate or to rural traders located in local markets, who then transport it to urban wholesalers. In turn the latter supply urban retailers, who break loads down into small lots for resale in market stalls or small neighborhood shops.

During consultations in affected villages (April 2014), participants in on the spot group discussions raised the issue of lack of access to markets for affected communities, due to

- Distance to markets and lack of means of transport
- Overall bad maintenance and quality of rural roads
- Lack of storage facilities
- Overall lack of capacity to get organized for group based marketing of products

3.10.7. Housing and Other Assets

The vast majority of houses observed in the affected area are made from local material, including locally extracted earth or clay for walls without cement or plastering and local timber for the structure. Almost all roofing materials for affected households are covered with grass (makuti).

The quality of housing in the study area as an indicator of the quality of life was found deficient, as most of the housing was traditional, devoid of any sanitary services. The houses are built of mud and mangrove posts for walling with makuti roof and conspicuously lacking ventilation and matching doors. The floors are mostly earthen and dusty as there is little extra water to temper the floor dust.

None of the residential structures has modern features such as an inside bathroom or toilet, or running water. Concrete floors are absent compared with clay floors, which are found in 99% of the surveyed households. More than half the population use non- potable water from water the river. A small proportion of the population has access to public water taps.

Those households who own a radio are almost a quarter of the total number of households in the Project Affected Area. Cellular phone is pretty common with one head of households out of three owns at least a mobile phone.

Most of the households have no latrines within their homesteads. This human defecation habits on the farms and uncultivated pieces of land were evident, which is a health hazard incase the community members. It is therefore important to emphasize good sanitation habits as well as the dangers associated with improper habits during sensitization meetings.

Ancillary structures include:

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

3.10.8. Opinions and Expectations Related With Mwache Multipurpose Dam

The Participatory Rural Appraisal (PRA) and Focus Group Discussions (FGD) included a number of questions and elements directed at assessing public opinions and expectations for the Mwache Dam Project. Additional, significant input was also received through the public consultation exercise conducted as part of ESIA and Social Assessment conducted in 2014.

Feedback from all of these sources was incorporated into a detailed Issues and Response report used during the ESIA scoping phase, and was included in a public consultation report that was submitted as part of ESIA.

In summary however, it can be stated that individual expectations of the project relate with employment to an overwhelming degree. PAPs also expected that they would be provided with free connection to domestic waterlines once the dam is constructed.

Approximately 80% of the population answered directly that they did not fear anything about the project. However, majority of the population expressed concerns about loss of income from sand harvesting and fishing activities as a result of the proposed project.

Compensation: One of the major concerns of the households was whether there would be compensation for loss of income by the project. Majority of the PAPs who had structures, fields for agriculture or commercial enterprise in the proposed plant site (including irrigation area) preferred cash compensation as shown in the **Tables 43, 44, 45, 46 and 47.**

Table 43. Preferred Compensation by PAP-Residential Structures

In the event that your parcel of residence would have to be displaced, what type of compensation would you prefer				
	Number	Percent	Valid Percent	Cumulative Percent
Cash compensation for loss of residence	663	88.9	88.9	88.9
No response	83	11.1	11.1	100.0
Total	746	100.0	100.0	

Table 44. Preferred Compensation by PAP-Agricultural Fields

In the event that your agricultural fields would have to be displaced, what type of compensation would you prefer				
	Number	Percent	Valid Percent	Cumulative Percent
Construction of infrastructure by the project making it poss	23	3.1	3.1	3.1
Replacement fields on new agricultural lands	9	1.2	1.2	4.3
Monetary compensation for the value of part of your agriculture	679	91.0	91.0	95.3
No response	35	4.7	4.7	100.0
Total	746	100.0	100.0	

Table 45. Preferred Compensation by PAP-Residential Structure

In the event that the land plots you are occupying would be affected by the project, what type of compensation would you prefer for the structures including those you are living in

	Number	Percent	Valid Percent	Cumulative Percent
Reconstruction of affected structures by the project	14	1.9	1.9	1.9
Monetary compensation for parts of your structures affected	496	66.5	66.5	68.4
Other	7	.9	.9	69.3
No Response	229	30.7	30.7	100.0
Total	746	100.0	100.0	

Table 46. Preferred Compensation by PAP-Construction of Irrigation Infrastructure

Construction of irrigation infrastructure by the project improving the productivity of your plots located in the highlands

	Number	Percent	Valid Percent	Cumulative Percent
Yes	317	42.5	42.5	42.5
No	170	22.8	22.8	65.3

Table 47. Preferred Compensation by PAP-Access to Training Programs

Access to training programs in various sectors allowing for the acquisition of new knowledge that would increase your employment opportunities

	Number	Percent	Valid Percent	Cumulative Percent
Yes	159	21.3	21.3	21.3
No	145	19.4	19.4	40.8

3.10.9. Awareness of the Mwache Multipurpose Dam Project

93.2% of the PAPs interviewed are aware of the Mwache Dam Project as is shown in Table 48 below.

Table 48. Awareness of Mwache Multipurpose Dam Project

	Number	Percent	Valid Percent	Cumulative Percent
Yes	695	93.2	93.2	93.2
No	14	1.9	1.9	95.0
No response	37	5.0	5.0	100.0
Total	746	100.0	100.0	

Awareness that land could be affected: Over 84.6% of the PAPs interviewed were aware that the land where they were conducting their activities would be acquired as a result of the project as is shown in the Table 46 below.

Table 49. % of PAPs aware that land will be affected

	Number	Percent	Valid Percent	Cumulative Percent
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Yes	631	84.6	84.6	84.6
No	12	1.6	1.6	86.2
No Response	103	13.8	13.8	100.0
Total	746	100.0	100.0	

3.10.10. Source of Information about the Project

The PAPs have been aware about the proposed project for a very long time and mentioned the following as sources where they derived information about the project namely; -

1. Local Administration
2. County Government
3. Coast Development Authority
4. National Government
5. Neighbors
6. Family Members

Table 50. Main Source of Information about Mwache Dam Multipurpose Project

	Number	Percent	Valid Percent	Cumulative Percent
Members of your family	13	1.7	1.7	1.7
Neighbors	46	6.2	6.2	7.9
National or County Government	164	22.0	22.0	29.9
Local authorities	502	67.3	67.3	97.2
No response	21	2.8	2.8	100.0
Total	746	100.0	100.0	

CHAPTER 4. LEGAL AND REGULATORY FRAMEWORK

The chapter sets out the legal operating environment for acquisition of land as anticipated in the implementation of the Mwache Multipurpose Dam 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 51 below summarizes the relevant legal framework in Kenya applicable to this project in regard to resettlement.

Table 51. Summary of relevant resettlement legal statutes applicable to Mwache Multipurpose 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.a

4.1. THE NATIONAL LAND POLICY

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

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

- To review the law on compulsory acquisition to align it with the new categories of land ownership (public, private and community land);¹¹
- To harmonize the framework for compulsory acquisition to avoid overlapping mandates;¹²
- To establish compulsory acquisition criteria, processes and procedures that are efficient, transparent and accountable;¹³
- To institute legal and administrative mechanisms for the exercise of the power of compulsory acquisition by the State through the National Land Commission;¹⁴ and
- To confer pre-emptive rights on the original owners or their successor in title where the public purpose or interest justifying the compulsory acquisition fails or ceases.¹⁵

4.2. THE CONSTITUTION OF KENYA

⁴ *Sessional Paper No. 3 of 2009 on National Land Policy* (referred to as the “National Land Policy” in this report) was adopted in August 2009 by the Ministry of Lands. Available at http://www.lands.go.ke/index.php?option=com_content&task=view&id=238&Itemid=48, accessed May 25, 2011.

⁵ Development control is the power of the State to regulate the property rights in urban and rural areas and is derived from the State’s responsibility to ensure that the use of land promotes the public interest.

⁶ *Sessional Paper No. 3 of 2009 on National Land Policy*, § 45.

⁷ The Constitution of Kenya, 1963, was replaced in 2010.

⁸ Land Act, § 6, 2012.

⁹ *Sessional Paper No. 3 of 2009 on National Land Policy*. §233(d).

¹⁰ *Id.* at Chapter 3.2.1.1, article. 46.

¹¹ *Id.* at Chapter 3.2.1.1, article. 47(a).

¹² *Id.* at Chapter 3.2.1.1, article. 46 and 47(b). Under the previous Constitution, Chapter IX (Trust Land), Art. 18, the President and local authorities had the power to set apart Trust Land for the purposes of the Government of Kenya or any corporate body established by an Act of Parliament, or companies which shares are held on behalf of the GoK and for extraction of minerals and oils. This power does not exist under the new Constitution. Under the Government Lands Act, the President has special powers with regards to government land, and he may exercise these powers through the Commissioner of Lands. (Government Lands Act, Chapter 280, §3.)

¹³ *Sessional Paper No. 3 of 2009 on National Land Policy*, Chapter 3.2.1.1, § 47(c).

¹⁴ *Id.* at Chapter 3.2.1.1, p. 47(d).

¹⁵ *Id.* at Chapter 3.2.1.1, §47(e).

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

“The State shall not deprive a person of property of any description, or of any interest in, or right over, property of any description, unless the deprivation—results from an acquisition of land or an interest in land or a conversion of an interest in land, or title to land, in accordance with Chapter Five; or is for a public purpose or in the public interest and is carried out in accordance with this Constitution and any Act of Parliament that –

- (i) Requires prompt payment in full, of just compensation to the person; and*
- (ii) Allows any person who has an interest in or right over, that property a right of access to a court of law.¹⁸*

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

Article 40(3) (a) refers to acquisition and conversion of all kinds of land in Kenya (private, public, community land and foreign interests in land). The Constitution further provides that payment of compensation shall be made to "occupants in good faith" of land acquired by the state who do not hold title for such land.²⁰ An occupant in good faith is a "bona fide" occupant. On the other hand, under the Constitution, those who have acquired land illegally are not regarded as deserving any compensation.²¹

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

¹⁶ The Constitution of Kenya, 2010, was adopted by the Government of Kenya on 27 August 2010. The full text is available at http://www.kenyalaw.org/klr/fileadmin/pdfdownloads/Constitution/Constitution_of_Kenya2010.pdf, accessed May 25, 2011.

¹⁷ Constitution of Kenya, art. 40.

¹⁸ Id.

¹⁹ The Land Act, 2012 The Government of Kenya, Section 8.

²⁰ Constitution of Kenya. Id. at art. 40(5).

²¹ Constitution of Kenya. Id. at art. 40(3).

sensitive areas.²² These principles must be implemented through a national land policy reviewed regularly by the national government and through legislation.²³

4.3.LAND TENURE SYSTEM IN KENYA

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

4.3.1 Customary Land Tenure

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

4.3.2 Freehold Tenure

This tenure confers the greatest interest in land called absolute right of ownership or possession of land for an indefinite period of time, or in perpetuity. The Land Registration Act, 2012, governs freehold land. The Act provides that the registration of a person as the proprietor of the land vests in that person the absolute ownership of that land together with all rights, privileges relating thereto. A freehold title generally has no restriction as to the use and occupation but in practice there are conditional freeholds, which restrict the use for say agricultural or ranching purposes only. Land individualization was demanded by the colonial settlers who required legal guarantee for the private ownership of land without which they were reluctant to invest.

²² *Id.* at art. 60.

²³ *Id.* at art. 60(2).

²⁴ *Id.* at art. 61.

²⁵ *Id.* at art. 63(d)(i).

²⁶ *Id.* at art. 62(g).

²⁷ *Id.* at arts. 62(3), 67(2)s (a).

²⁸ *Id.* at art. 63(d)(i) and (ii).

4.3.3 Leasehold Tenure

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

4.3.4 Public Tenure

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

- *To identify public land, prepare and keep a database of all public land, which shall be geo-referenced and authenticated by the statutory body responsible for survey;*
- *Evaluate all parcels of public land based on land capability classification, land resources mapping consideration, overall potential for use, and resource evaluation data for land use planning; and*
- *Acquire land for public purposes*
- *Solve land disputes and deal with historical land injustices*
- *Share data with the public and relevant institutions in order to discharge their respective functions and powers under this Act; or*
- *May require the land to be used for specified purposes and subject to such conditions, covenants, encumbrances or reservations as are specified in the relevant order or other instrument²⁹.*

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

4.3.5 Public Resources on Public Land

Notwithstanding the fore going, it is a common law doctrine to the effect that common property resources such as rivers, forests and parks are held by the state in trust for the general public. Consequently, the state cannot alienate these resources or use them in a way detrimental to public interest. This is the doctrine that would ensure that public land cannot be alienated or committed to waste to the detriment of public interest. It is the case that the

²⁹ National Land Commission Act, 2012, Section II, article 5(1)

statutory frameworks for land ownership in Kenya is heavily influenced by common law jurisprudence on land ownership-the owner's rights includes the rights of use and abuse. In Kenya however, the development of physical planning legislation has vested in the state the cumulative rights of other landowners. The regulatory power is referred to as police power.

4.4.LAND ACT, 2012

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

4.5.LAND ACQUISITION PROCESS

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.

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.

Inspection of Land to be acquired

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

³⁰ Land Act, 2012.

Publication of notice of intention to acquire

Upon approval, NLC shall publish a notice of intention to acquire the land in the *Kenya Gazette and County Gazette*.³¹ It will then serve a copy of the notice to every person interested in the land and deposit the same copy to the Registrar³² The courts have strictly interpreted this provision, requiring that the notice include the description of the land, indicate the public purpose for which the land is being acquired and state the name of the acquiring public body.³³ NLC shall ensure that the provisions are included in her notice.

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.

Serve the notice of inquiry

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

Holding of a public hearing

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

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

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

³² Land Act, 2012, 107

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

³⁴ Land Act, 2012 (112).

³⁵ *Id.* at article 112.

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 compensation³⁶ 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.

Matters to be considered in determining compensation:

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

Increased market value is disregarded when:

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

Matters not to be considered in determining compensation:

- The degree of urgency, which has led to the acquisition.
- Any disinclination of the person’s interest to part with the land.
- Damages sustained by the claimant, which will not represent a good cause of action.

³⁶ Schedule explaining ‘just compensation’ has not been assessed and released by NLC. The Land Act 2012 say NLC should develop the schedule.

³⁷ *Id.* at article 112 and article 111.

³⁸ Schedule 2 governing compensation 2000.

- Damages, which are likely to be caused to the land after the publication of the acquisition notice or as a consequence of the future, land use.
- Increased land value accrued by its future use.
- Any development at the time of acquisition notice, unless these improvements were necessary for maintaining the land.³⁹

Award of compensation

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

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

Payment of Compensation

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

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

³⁹ Schedule 3 governing compensation for compulsory acquisition

⁴⁰ *Land Act*, 117.

⁴¹ *Land Act*, Schedule

⁴² *Land Act*, 115

⁴³ *Land Act*, 115

⁴⁴ *Land Act*, This language reflects the language of the Kenya Constitution, 1963.

⁴⁵ *Land Act*, 119

⁴⁶ *Constitution of Kenya*, article 162

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.⁴⁷

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

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

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

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

Opportunity for Appeal

The Kenya Constitution establishes Environment and Land Court⁴⁸. Article 162 of the constitution provides for the creation of specialized courts to handle all matters on land and the environment. Such a court will have the status and powers of a High Court in every respect. Article 159 on the principles of judicial authority, indicates that courts will endeavor to encourage application of alternative dispute resolution mechanisms, including traditional ones, so long as they are consistent with the 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.

⁴⁷ Land Act, 115 and 116

⁴⁸ Land Act 2012, Section 128

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

- *The determination of such person's right over the land;*
- *The amount offered in compensation; and*
- *The amount offered in compensation for damages for temporary dispossession in the case of the Government's withdrawal of its acquisition of the land.*⁴⁹

Parties will pay fees as determined by Environment and Land Court or the court may choose to waive them completely or in part on grounds of financial hardship.⁵⁰

4.6.CHILDREN AND ORPHANS PROVISION OF LAND POSSESSION

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

4.7.THE VALUERS ACT

Valuation of land is a critical aspect of compulsory acquisition practice and compensation. The National Land Commission based on land valuation determined by registered valuers will make compensation awards. Besides, the Valuers Act⁵² establishes the Valuers Registration Board, which regulates the activities and practice of registered valuers. All valuers must be registered with the Board to practice in Kenya. The Board shall keep and maintain the names of registered valuers, which shall include the date of entry in the register; the address of the person registered the qualification of the person and any other relevant particular that the Board may find necessary.

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

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

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

⁴⁹ *Land Acquisition Act.* at article 29(7).

⁵⁰ *Land Acquisition Act* at article 43.

⁵¹ "A child shall be capable of holding title to land through a trustee and such child be in the same position as an adult with regard to the child's liability and obligations to the land".

⁵² The Valuers Act, Chapter 532, http://www.kenyalaw.org/kenyalaw/klr_app/frames.php, accessed May 25, 2011.

⁵³ Government of Kenya, Kenya Gazette notice no. 2892, March 18, 2011. Registered and Practicing Valuers.

⁵⁴ The Valuers Act, § 24 and Legal Notice no. 32.

⁵⁵ *Land Act 2012, article 128.*

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

4.8. 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;
- 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;

⁵⁶ Legal Notice 32.

- 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.

4.9.INDIGENOUS PEOPLE

OP 4.10 is deemed applicable in the context of the Mwache Multipurpose Dam Project. This is based on findings from social surveys in the context of the Social Assessment (SA), which found presence of indigenous people as defined in OP4.10.

4.10. 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 and departments involved in land management, compensation and resettlement are briefly described below:

1. The Ministry of Lands:
2. National Land Commission (NLC):

4.11. COMPARISON OF KENYA LAND LAWS & WORLD BANK/GAP ANALYSIS

Table 45 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 52. Comparative Analysis of World Bank OP 4.12 and Government of Kenya requirements including measures to address gaps

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

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
PROCESS REQUIREMENTS			
<p>Consultation: 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>Grievance: 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>Eligibility Criteria</p> <p><i>Defined as:</i></p> <p>(a) those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country);</p> <p>(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</p> <p>(c) those who have no recognizable legal right or claim to the land they are occupying</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</p> <p>Land Act also recognizes those who have interest or some claim in the land such pastoralist or who use the land for their livelihood.</p> <p>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</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.</p> <p>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>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</p>

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
<p><i>To determine eligibility:</i></p> <p>Carry out resettlement census. Cut off date for eligibility is the day when the census begins.</p>	<p>NLC inspection and valuation process</p>	<p>Same as World Bank</p>	<p>as outlined in the RPF and Kenyan Law</p>
<p>Measures: Preference should be given to land based resettlement strategies for displaced persons whose livelihoods are land-based.</p> <p>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</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.</p> <p>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</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</p>	<p>Ensure that all alternative options are considered before providing cash compensation</p> <p>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>

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
<p>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>written claim not in the Land Act other than 'just compensation'</p> <p>The Act is does not out rightly stipulate assistance for relocation but we can interpret that relocation cost will be included in just compensation.</p>	<p>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>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>
<p>Valuation: 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</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>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>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>

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
<p>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>The Land Act 2012 stipulates just compensation.</p>	<p>Interpretation of just compensation not clear.</p>	<p>Apply World Bank OP4.12 on valuation and compensation procedures.</p>
<p>Monitor</p> <p>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 53. Comparative Analysis of World Bank OP 4.12 and Kenya's requirements Relevant to the Process

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

Sand Harvestors/Fisher folk/Stone quarry diggers	Not specific on livelihood. The constitution says some pay maybe made in good faith	Compensation and Livelihood restoration to pre-displacement level.
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CHAPTER 5. PROJECT IMPACTS ON AFFECTED COMMUNITIES

5.1.GENERAL INFORMATION

The physical presence of the dam and the maintaining of the water level will cause the lands near the dam and about 10 kilometers upstream the Mwache River Valley to remain flooded.

Impacts in general can be distinguished into

- Impacts from Project construction, and
- Impacts from Project operation.

The RAP is covering the project impacts resulting from land acquisition during construction and from the permanent flooding of areas from Project operation.

Other socio-economic impacts, i.e. impacts from construction activities such as noise, vibrations, construction traffic, presence of a large number of workforce, population influx, are covered by the ESMP.

Note: This chapter provides a description of the structures and operating modes based on the feasibility study for the Mwache Dam Project carried out by CES in 2011/12.

5.2.AFFECTED COMMUNITIES: OVERVIEW

The Project will affect households in local communities upstream of the dam structure, up to a distance of about 10 km on both sides of the Mwache River. The Table below provides an overview on affected villages in the project site. All affected villages are located in Kinango District, Kasemeni Division of Kwale County.

Table 54. Affected Villages and Households in Dam and Reservoir Area

Name of Villages Affected Dam Component	Number of Affected Households
Bokole	43
Changa	1
Chigato	18
Chingomeni	88
Chinguluni	72
Fulugani	28
Luweni	1
Mgandini	2
Miyani	4
Mnyenzeni	7
Mrabaini	81
Mwache	91
Mwachipa	106
Mwashanga	35
Mwatate	61

Nunguni	42
Vikinduni	2
Total	685

Table 55. Affected Villages and Households in Irrigation (Demonstration) Area

Name of Villages Affected Irrigation Component	Number of Affected Households
Pemba	61
Total	61

*Figures and other information on villages from TTR RAP

Table 56. Number of Affected Residential Structures by Village

No.	Affected Village	Number of Affected Structures
1	Bokole	4
2	Chigato	2
3	Chingomeni	39
4	Chinguluni	14
5	Miyani	3
6	Mnyenzeni	29
7	Mwache	29
8	Mwachipa	31
9	Nunguni	17
10	Pemba (Irrigation Area)	1
11	Vikinduni	2
Total Structures Affected		171

8.2.

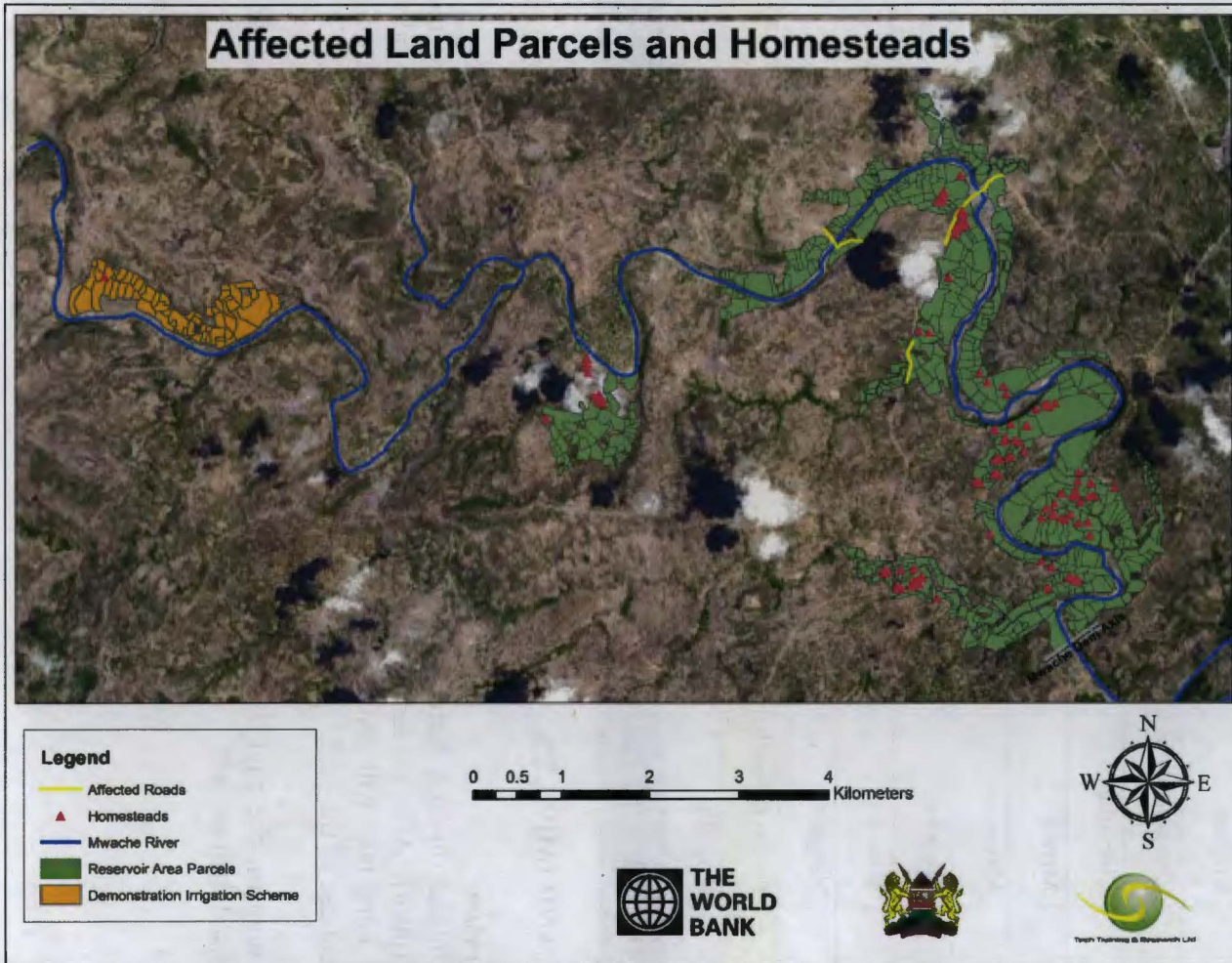
5.3.LAND IMPACTS

Overview

The impact on land during construction is limited to the dam site as well as the irrigation area (pilot). Affected land will be residential land, land used for business and agricultural land. Land take will result in the permanent change of land use and the termination of the present use of the land.

The map on the page below presents the spatial setting of areas required for the multi purposed dam project.

Figure 8. Spatial setting of Affected Areas and Homesteads



5.4.CONSTRUCTION AND OPERATION IMPACTS AND PROJECT AFFECTED PEOPLE

Project affected households were identified during field surveys between March and April 2014. In total, 746 households will be affected.

Loss of Residence

171 households will be affected by a loss of their residence. Types of affected residences were documented during the field surveys from March-April 2014 (see lists of affected residences in Annex 7).

Table 57. Number of Affected Structures

Total Structures-Residential	Number
Irrigation Area	1
Dam Area	170
Total Structures	171

Type of housing: Households within the project site had an average of 2 buildings constructed within the homestead, which included residential houses (owned by 100% of the households), and either kitchen (76%) livestock pens (40%) or stores (12%).

The most common types of building materials used were earth/mud and stones as the walling and makuti as roofing materials respectively for residential houses and commercial structures.

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

Usual construction techniques include (see **Photograph Plates in Annex**):

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

Loss of agricultural land

746 households in will be affected by the loss of agricultural land. Areas of affected agricultural land and the overall cultivation pattern were documented during the field surveys from March-April 2014 (see documentation of affected residences in Annex 7).

Table 58. Affected Land

Total Land Affected	Ha
Irrigation Area	108.57
Dam Area	746.74
Total	855.31

Households cultivating arable land

Households affected by the permanent flooding of arable plots will permanently lose the agricultural production from their plots.

Validation of arable land in the affected villages was undertaken in April 2014, through a census inventory and validation by land users, with confirmation from village heads and resettlement committees.

Information from self-validation comprises

- Names and contact details of affected households
- Size of land plots/household
- Size of total land cultivated/household
- Most important crop cultivated on land plot over past 3 years prior to cut-off date (see chapter on baseline conditions/land cultivation above)

Loss of residence plus loss of agricultural land

171 households will be affected by the loss of residential structures plus the loss of the associated agricultural land (private land). Types of affected residences and areas of affected land were documented during the field surveys from March-April 2014 (see documentation of affected residences in Annex 4).

Loss of Crops

All the PAPs are farmers and landowners. It is anticipated that all the developments and trees below the 100m contour will be lost to the area for submergence or to the tree buffer where farming activities will not be permitted as it will belong to the executing agency and used for dam related activities. The most common variety of trees that will be affected is mainly fruit trees with a few species of timber trees. Their valuation will vary based on type and age of the tree as well as what they produce. A summary of the trees is shown in **Table 59** below.

Table 59. Commercial Trees and Crops Affected

TREES	TOTAL
Baobab	163
Pawpaw	123
Mirabai	4805
Mporojo	78
Bananas	5564
Guava	872
Coconut	4057
Sisal	10176
Blue Gum (Eucalyptus)	733
Pineapple	78
Sugarcane	5561
Mkone	1622
Mkilifi	477

Mkanju	215
Mibalazi	538
Mwanga	1707
Mlozi	80
Cashewnut	109
Mtomoko	63
Mware	64
Citrus	61
Mbuyu	59
Mitanga	12
Mzambarau	14
Mkalakala	1
Miduta	353
Muwawa	880
Mgogodera	8
Migoza	43
Mingongo	54
Mikwaju	371
Acacia	82
Lemon	28
Mangos	2466
Misanduku	1633
Mchonga	1
Mahana	3
Mnago	49
Mkulu	208
Total	43, 411

Loss of Business

Only 1 commercial structure is affected by the proposed project, however other businesses are affected but do not operate in a structure including;

- Kiosks of small traders; e.g. water kiosks
- Sand harvesting businesses along riverbed.
- Fishing along the riverbed
- Quarry for building stones

Affected businesses were described and documented during the field surveys from March-April 2014 (see documentation of affected assets Annex 4), comprising names of owners and names of tenants of business premises.

Loss of Access to Resources

Fisherfolk

20 fishers, who practice fishing as a seasonal economic activity, will temporary lose the access to their present fishing sites/mooring locations of their boats during the construction of the dam. Names of affected fishers were documented during the field surveys from March-April 2014 (see documentation of affected assets Annex 4).

Grazing Areas/Pastureland

Grazing of livestock is common along the riverbed and therefore community members with livestock will loose grazing areas as well as source of water for the livestock due to the flooding of the reservoir.

Table 60. Where Goats and Sheep Graze

Location	Number	Percentage
Marsh land	240	32.2
Hills	48	6.4
Elsewhere	43	5.8
Not applicable	415	55.6
Total	746	100

Table 61. Where Cows Graze

Location	Number	Percentage
Zero grazing	106	14.2
Lowlands	172	23.1
Hills	33	4.4
Elsewhere	3	0.4
Not applicable	432	57.9
Total	746	100

Sand Harvesting

10 Sand harvesters (mainly youth) will loose access to sand normally mined/scooped from the riverbeds during the dry season.

Stone Quarrying

Stone quarrying as an activity and resource exploited from the riverbed will be lost as an economic activity due to the reservoir. An estimated 15 PAPs engage in this activity on a daily routine as part of their income-generating venture.

Water Kiosks

Women groups in villages where piped water is present have set up water kiosks and undertake water vending as a business.

Loss of cultural resources including graveyards

The Duruma people have a lot of reverence for the dead and therefore their graves are well preserved. They also; as much as they have adopted new forms of religious worship, have deep attachment to the traditional worship and the shrines are crucial in their ways of life. In

view of this, 2 sites for traditional worship (Kayas) and xx graves will be affected and would require relocation. The executing agency will assist in the relocation and cleansing services prior to de-commissioning of the sites. This view was strongly shared by both the traditionalists and the Christian denominations. The 2 cultural sites for traditional worship (kayas) are found at Mwache Bridge and Fulugani Dam site while the graves are distributed in different households.

Part of the tree buffer developed under the project will be dedicated in consultation with the Kaya Elders to be used for continued traditional cultural site for their worship.

5.4.1 Loss of Infrastructure and Networks

There will be a bridge and part of the road within the project area that will be inundated because of the project.

Table 62. Affected land as per village census and validation

Name of Villages Affected Dam Component	Number of Households	Size of land Affected in Village
Bokole	43	
Changa	1	
Chigato	18	
Chingomeni	88	
Chinguluni	72	
Fulugani	28	
Luweni	1	
Mgandini	2	
Mirabaini	4	
Miyani	7	
Mnyenzeni	81	
Mrabaini	91	
Mwache	106	
Mwachipa	35	
Mwashanga	61	
Mwatate	42	
Nunguni	2	
Vikinduni	43	
Total	685	
Name of Villages Affected Irrigation Component	Number of Affected Households	Size of Affected Land (Ha)
Pemba	61	100
Total	61	

Figure 9: Project Operation: Permanently flooded areas up to 7 km from Dam site

Figure 10. Map showing land /plots affected and structures

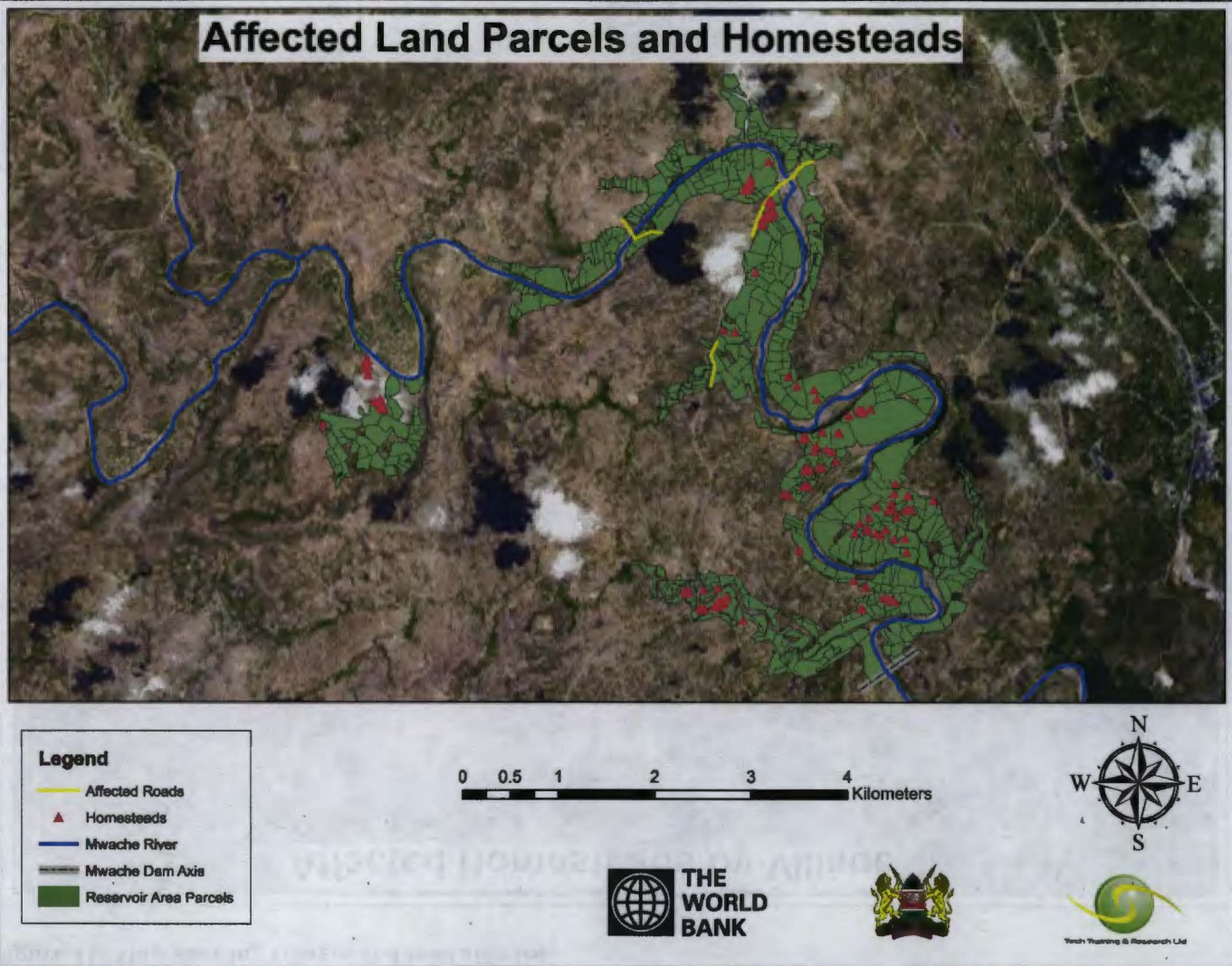
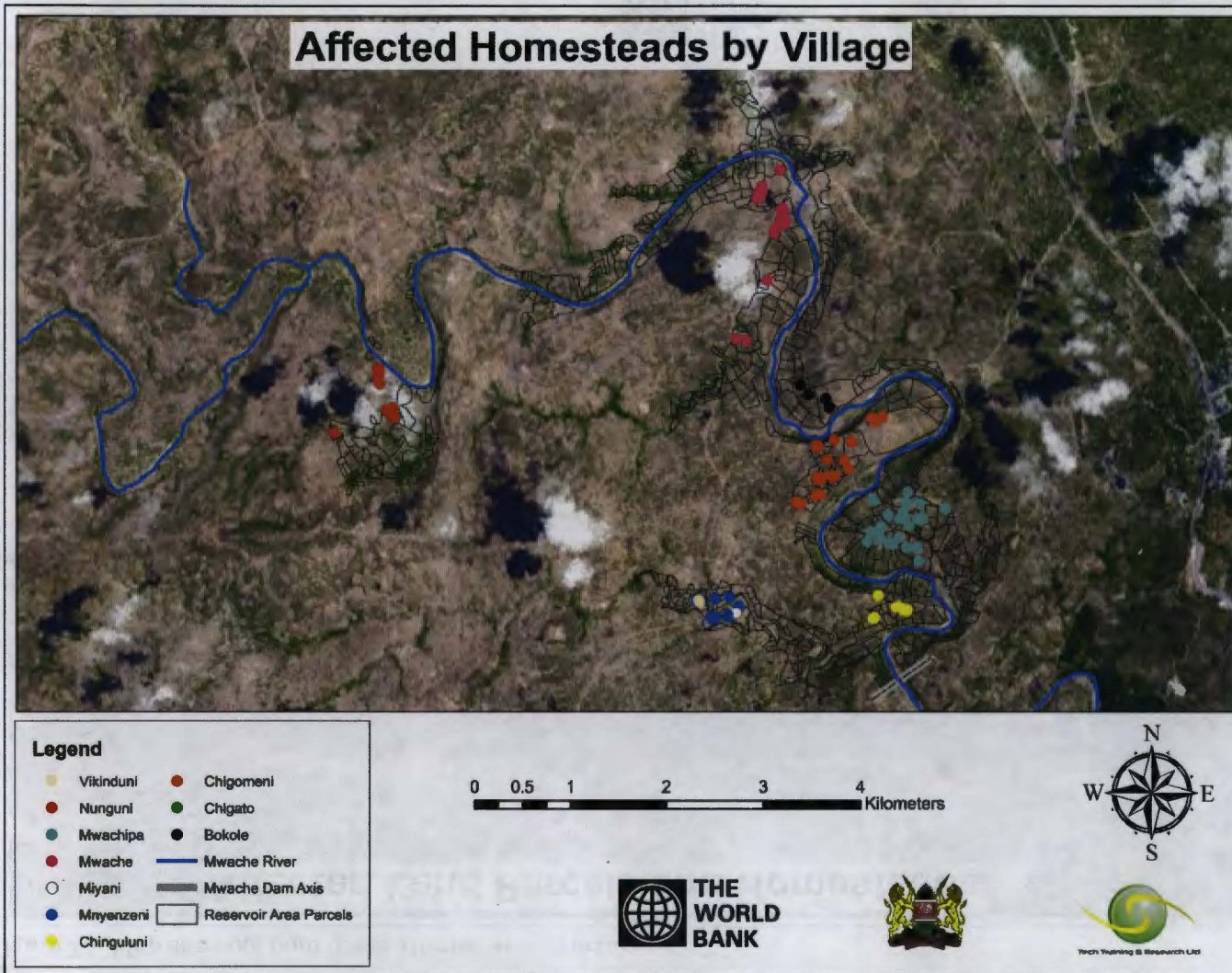


Figure 11. Map showing villages and land affected



5.5.SUMMARY OF PROJECT IMPACTS AND AFFECTED PEOPLE

Overview: Project Impacts and Project Affected Households, Construction and Operation

Table 63. Summary: Project Impacts and Project Affected People (Dam Site)

Description	Area (hectares)	No. of Households
Land Acquisition in Dam Site		
Agricultural Land	746.74	685
Business Units	0.00	0.00
Residential Structures		171-structures

Table 64. Summary: Project Impacts and Project Affected People (Irrigation Site)

Description	Area (Hectares)	No. of Households
Land Acquisition in Demonstration Irrigation Site		
Agricultural Land	108.57	61
Business Units	1	
Residential Structures		

5.5.1 Other Impacts

Conflict in resource use

The on-going land registration process is recipe for 68ndividualization of resources that were freely available to members of the community such as access to water and fuel wood harvesting. With the development of the dam and the new measures to protect the catchment area, further restrictions will be imposed on the community on the management of their farm holdings. However, in mitigation, new opportunities will be created through the dam in the tree planting programmes and provision of water to individual farms for irrigation and livestock use.

During the construction and prior to the dam being filled, there will be reduced and interrupted flow of water and likely to cause conflict among water users especially for livestock and domestic use.

Land market

The project will trigger a land market in the area that currently is non-existent or practiced within the family connections. Speculators will invade the area to capitalize on the new opportunities in land values and also farming. Land use changes will be evident with non-agricultural land use such as residential housing and commercial development replacing agricultural use of land. It is recommended that the executing agency and other government agencies put in place measures to protect the potential agricultural land within the command area for sustainability of the project. Provisions in the new Constitution pertaining to land use planning and environment will need to be expounded and regulations by the County Government forming basis for the control of agricultural land use changes and organized urbanization framework. A detailed study in this respect is needed so that Government can make informed decisions in regulating agriculture land market.

5.5.2 HIV/AIDS

From the records at the health facilities in the area, HIV/AIDS prevalence is very low but with the intrusion into the area by people from different cultures, the behavioral patterns of the community will change with high levels of sexual promiscuity. Other sexually transmitted diseases will likely be reported in the area during construction as a result of social interactions.

Steps will be taken by the executing agency so that

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

Table 65. Main Physical and Socio-Economic Characteristics of households in the project area

Characteristics	Description
Languages	English, Kiswahili, Duruma
Religion	Islam, Traditional Religion, Christianity
Housing	Walls: mud, mud brick, Roofs: aluminum or iron sheets. The important proportion of mud walls is a sign of the poor state of the village.
Water	Surface water from the nearby Mzima pipeline/Mwache River
Electricity	No electricity within the project affected site
Television	None
Cell phone	Safaricom, Airtel, Orange
Education	A couple schools (primary and secondary)
Health	Limited clinics and health centres
Commerce	Several market centres environs
Transport	Motorbikes used to get people to the main road; Poor road access
Cultural sites	Kaya-traditional worship shrines in project affected area
Cemeteries	Several community graveyards

5.5.3 Perception of PAPs on Adverse Impacts of Mwache Multipurpose Dam Project

Over 72% of the HH though the project would negatively affect their incomes in the following ways

1. Decrease income since families depend on the crops from the land and therefore destruction of agricultural land would adversely affect income sources. The areas predominantly rely on agriculture as primary source of income and food.
2. Lack of grazing areas for livestock as well as fishing related income derived from the Mwache River

Table 66. Project Impact on Household Income

How do you think this project could affect your household (Household incomes)					
		Number	Percent	Valid Percent	Cumulative Percent
	Positive	33	4.4	4.4	4.4
	Negative	541	72.5	72.5	76.9
	Without impact	15	2.0	2.0	79.0
	Don't know	12	1.6	1.6	80.6
	No Response	145	19.4	19.4	100.0
	Total	746	100.0	100.0	

Almost 50% of the households felt the project would affect their household expenditure negatively because 90% of their household expenditures are met by income coming from agricultural related activities, which would be affected by the dam construction.

Table 67. Project Impact on Household Expenses

How do you think this project could affect your household (Household expenses)					
		Number	Percent	Valid Percent	Cumulative Percent
	Positive	52	7.0	7.0	7.0
	Negative	364	48.8	48.8	55.8
	Without impact	11	1.5	1.5	57.2
	Don't know	36	4.8	4.8	62.1

62.9% felt the project would affect their food sources negatively mainly because the area relies on production of crops for subsistence and acquisition of land diminishes ability to produce more food crops.

Table 68. Project Impact on Food

How do you think this project could affect your household (Household food)					
		Number	Percent	Valid Percent	Cumulative Percent
	Positive	14	1.9	1.9	1.9
	Negative	469	62.9	62.9	64.7
	Without impact	10	1.3	1.3	66.1
	Don't know	27	3.6	3.6	69.7
	No Response	226	30.3	30.3	100.0
	Total	746	100.0	100.0	

Over 20% of the households thought the project would adversely affect their health and that of other members primarily due to the fact that dams and irrigation schemes provide ideal environment and breeding ground for vectors that transmit diseases like bilharzia, malaria, cholera among others.

Table 69. Project Impact on Household Health

How do you think this project could affect your household (Household members health)					
		Number	Percent	Valid Percent	Cumulative Percent

Negative	155	20.8	20.8	20.8
Without impact	34	4.6	4.6	25.3
Don't know	44	5.9	5.9	31.2
No Response	513	68.8	68.8	100.0
Total	746	100.0	100.0	

Only 13% of the HH thought the project would disrupt the existing social networks and family ties as a result of displacement and resettlement. Over 45% did not know the impact on social networks and 78% did not respond to this question.

Table 70. Project Impact on Social Networks

How do you think this project could affect your household (Household head answer)				
		Number	Percent	Valid Percent
	Positive	1	.1	.1
	Negative	97	13.0	13.0
	Without impact	22	2.9	2.9
	Don't know	45	6.0	6.0
	No Response	581	77.9	77.9
	Total	746	100.0	100.0

CHAPTER 6. VALUATION AND COMPENSATION

RESETTLEMENT COMPENSATION STRATEGY

6.1.OVERALL APPROACH AND KEY PRINCIPLES

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

Overall objectives of the RAP are:

- Avoid or at least minimize involuntary resettlement;
- Mitigate adverse social and economic-impacts from land acquisition by:
 - Providing compensation for loss of assets at replacement cost; and
 - Ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected;
- Improve or at least restore the livelihoods and standards of living of affected people;
- Provide additional targeted assistance (e.g., credit facilities, training, or job opportunities) and opportunities to improve or at least restore their income-earning capacity, production levels, and standards of living to displaced persons whose livelihoods or income levels are adversely affected, and
- Provide transitional support to displaced persons, as necessary, based on a reasonable estimate of the time required to restore their income earning capacity, production levels, and standards of living.

The key principles of this RAP are the following

- Compensation and resettlement of project affected people will be carried out in compliance with Kenyan legislation, WB OP 4.12;
- Where Kenyan legislation is less favourable to PAPs than WB OP 4.12 requirements or does not apply at all, these latter shall apply;
- All physically and economically displaced people will be offered an option between either a full resettlement package, including the provision of replacement residential land and a house, or cash compensation;

Experience has shown that cash compensation, although very sought after by many household heads, could be detrimental in the medium term, to other household members, particularly the females and the children; the Project will provide for measures to support sustainable use of cash compensation and for mechanisms within the overall monitoring framework to follow up the use of cash compensation;

Where farmers are economically displaced, they will be offered a resettlement option including the provision of agricultural land of potential equivalent to that of the land they have lost;

1. The Project will assist PAPs in restoring their affected livelihoods and will provide transitional assistance as necessary as long as livelihoods are not restored to their previous level;
2. The Project aims to turn PAPs to Project beneficiaries; targeted livelihood restoration programs will be implemented as part of this RAP in order to achieve this goal;
3. The RAP implementation and –outcomes will be monitored and evaluated as part of a transparent process;
4. PAPs and host communities will be informed, consulted and involved in decision making during the course of RAP development, implementation and evaluation;
5. A grievance mechanism will be accessible to all affected people at all times during preparation, implementation and monitoring of the RAP; this mechanism will include the possibility to resort to court resolution;
6. In addition to the RAP, **sustainable livelihood programme** will be designed and implemented, aiming to support the overall sustainable social and economic development of the wider Project area; the **sustainable livelihood programme** will complement the mitigation measures proposed in the ESMP and the livelihood restoration measures of this RAP, and
7. Removal of assets, displacement or restriction of access will not occur before necessary measures for compensation are agreed and in accordance with Kenyan Law and in conformance with International Requirements. Measures will include all kinds of compensation and of other assistance prior to, during or after displacement/physical relocation.
8. In this RAP, these key principles apply to all people and businesses affected by involuntary land take and loss of other assets resulting in:
 - Relocation or loss of shelter;
 - Loss of assets or access to assets, and
 - Loss of income sources or means of livelihood, whether or not the affected persons must move to another location.

Note: The Project has presented the two options “resettlement option” and “cash compensation” to affected households with the respective entitlements. All PAPs expressed a strong preference for cash compensation. Affected people entirely prefer to stay directly at the Project site, establish new residences and benefit from the local initiatives and enterprises that may mushroom as a result of the dam. For those losing more than 20% of land, cash compensation will only be provided upon confirmation of an alternate land or proof of purchase or identification of new resettlement site. Village resettlement committees will have to validate alternate resettlement site

6.2.LIVELIHOOD RESTORATION

The RAP is entirely designed to meet the provisions of Kenyan Law as well as the requirements of International Standards, namely WB OP 4.12., in the context of the Project’s anticipated impacts. In this respect, livelihood restoration measures provide a wide range of support measures to affected populations in addition to compensation.

The livelihood restoration measures aim to ensure that no PAP suffers hardship due to the Project as set out in the International Requirements. Therefore, the overall purpose is to achieve the restoration of affected livelihoods at least to the level prior to the Project or even the improvement of affected livelihoods and the special consideration of affected vulnerable groups.

The livelihood restoration measures have been developed under consideration of the results of consultations of PAP and of other stakeholders performed 2014 April by TRR.

6.3.ELIGIBILITY

6.3.1 Census and Asset Assessment

Census for RAP

In order to capture all households affected by the dam and irrigation, TRR conducted a census in the format of a questionnaire based socio-economic household survey in 2014.

The census questionnaires in general comprised two parts, with a third part addressing businesses

- Part A: socio-economic household information, inventory of affected assets
- Part B: results of topographic survey of affected plots – area of plots and crops grown on plots – (GPS-based)
- Part C: assessment of affected businesses

Heads of households were interviewed on the overall situation of their household, their affected assets were assessed; their land under cultivation as well as the respective crops were recorded.

Businesses were surveyed focused on the inventory of expected losses and the establishment of revenue losses due to the Project. About 746 households were covered with the 2014 census.

Fieldwork in potentially affected villages along the Mwache River was carried out in order to

- Establish arable land use at household level using census
- Establish for each village a list of households and area of land used through consultations with the village leaders, and dam committee and
- Conduct village meetings and ask individual households to obtain use information.

Consultations of households in the villages, which will be affected by dam construction activities, were undertaken in March and April 2014, aiming to:

- Meet affected households in order to document the assets that would be lost, and

- Confirm preferred options for compensation (land for land-or cash compensation) and acknowledge the cut-off date.

6.3.2 Cut-off Date

The cut-off date is the respective date of the community self-validation meeting or consultation meeting with affected households (April 2014).

- No structure or field established in the Project area after the cut-off date shall be eligible for compensation. This has been explained during the field work period to all interested parties;
 - Mwache Dam Committees;
 - Village leaders, and Local Administration
 - Project Affected People and
 - County authorities (Ward Administrator)

It was also explained that cut-off dates, which were set during previous RAP and design phases of the Project, are no longer valid.

Table 71. Cut of dates in Affected Villages

Village	Cut of Date
Fulugani	April 12 th 2014
Mwachipa	April 14 th 2014
Bokole	April 15 th 2014
Mwache	April 17 th 2014
Chigomeni	April 19 th 2014
Chigato	April 19 th 2014
Chinguluni	April 21 st 2014
Luweni	April 22 nd 2014
Miyani	April 22 nd 2014
Mrabaini	April 22 nd 2014
Mgandini	April 22 nd 2014
Mnyenzeni	April 22 nd & 23 rd 2014
Mwashanga	April 24 th 2014
Vikinduni	April 24 th 2014
Changa	April 24 th 2014

Note: The cut – off date related to the project was communicated in all 18 villages in along the Mwache River affected by the project. Consultations will start during the disclosure period of the RAP.

Speculative Structures

Opportunistic structures established for the sole purpose of compensation pose a specific eligibility problem, which will be addressed through the following methods to ascertain the validity of the claim:

1. Visual inspection of the structure to determine whether it is really a residential- or business structure or not;
2. Consultation with the local resettlement committee whether the contested structure indeed was established prior to the cut –off date.

Eligibility

Assets, including structures and fields, that were surveyed in the project affected area at the cut-off-date are eligible for compensation, if these assets, structures and fields are determined as project affected. People residing or holding affected assets in the project-affected area at the cut-off date are eligible for compensation.

The types of impacts identified as eligible for compensation are:

1. Loss of crops;
2. Loss of land and loss of improvements on land
3. Loss of structures;
4. Loss of access (to resources);
5. Loss of business;
6. Loss of employment

6.3.4 Overview of Entitlements

General Approach

Entitlements for compensation will refer to the affected household as a joint entity rather than to the head of household considered as an individual.

In a bi-parental family, both spouses will be considered as entitled to cash compensation and both are intended to be beneficiaries of livelihood restoration measures; respective procedures, i.e. exit survey with the signature of compensation agreements, will be performed in the presence of and with the signatures of both spouses; bank transfers will be made to accounts held by both spouses.

Where the household is headed by a single person, entitlements will be in the name of this individual only. *In case the head of household is a child (under 18 years), the household head would be entitled to a special support program in order obtain the capacity to manage compensation money. Where possible, an adult relative would be asked to act as trustee.*

- The cash compensation process will be subject to monitoring in order to track if the entire affected household will benefit from compensation and that compensation money is used in a meaningful manner.
- Cash compensation disbursement will be complemented by money management training (to both spouses in a bi-parental family) as part of the livelihood restoration program

The following paragraphs provide an overview on the different types of losses and the respective entitlements.

Table 72. General Approach for Compensation and Resettlement

Loss of Residential Structure and Residential Land

Option 1

- Cash compensation at replacement value for loss of residential house, taking into account market values for structures and materials;
- Cash compensation for loss of residential land at replacement value, taking into account market values for land;
- Cash compensation at replacement value for loss of other non-residential structures, taking into account market values for materials;
- Cash compensation at replacement value for permanent crops in home garden plus: all necessary transaction cost
- Disturbance compensation equivalent to two months rental costs
- Money management training

Option 2

- Allocation of residential plot on agreed resettlement site, with secure tenure;
- Transfer of the land to the PAP shall be free of taxes, registration, and other costs
- When the affected holding is larger than the relocation plot, cash compensation to cover the difference in value, taking into account market values for land.
- Reconstruction of a resettlement house of at least the same quality as the affected house; and cash compensation at replacement value of any specific features that would not be included in the resettlement house, and
 - Disturbance compensation equivalent to two months rental costs
 - Relocation assistance (costs of shifting + allowance)

Note: According to the results of the field surveys in March and April 2014, project affected people **entirely prefer cash compensation** over the land for land or the house for house approach. There was not a single exception to the cash preference.

Loss of Business Structure

Immovable business structure

- Compensation at full replacement value for immovable assets (including commercial land associated to the structure);
- Plus: all necessary transaction costs;
- Compensation for loss of income for the period of time required to re-establish the business and restore associated income – typically two month income, with a maximum of one year income based on tax records for previous year (or tax records from comparable business, or estimates).

- For partially affected businesses, cash compensation for affected land and opportunity cost compensation equivalent to 5% of net annual income based on tax records for previous year (or tax records from comparable business, or estimates where such records do not exist).
- If business cannot be re-established, livelihood restoration program

Movable business structure (e.g. kiosk)

- Moving allowance (covering moving costs/transaction costs)
- Transition allowance to cover the period until the business is fully operational again after moving (typically 2 month income, with a maximum of 1 year income)
- For partially affected businesses, cash compensation for affected land and opportunity cost compensation equivalent to 5% of net annual income based on tax or accounting records for previous year (or tax records from comparable business, or estimates where such records do not exist)
- Where a business owner is a lease holder, opportunity cost compensation equivalent to 10% of net annual income based on tax or accounting records for previous year (or tax records from comparable business, or estimates where such records do not exist)
- Money management training
- If business cannot be re-established: livelihood restoration program

Note: According to the results of the field surveys in March and April 2014, project affected people entirely prefer cash compensation over the land for land or the house for house approach. There was not a single exception to the cash preference.

Loss of Income Due to Employment

- Compensation for lost income for employees of displaced business is the responsibility of the business owner (salaries of employees are part of the compensation amount for lost income); PIU will facilitate respective arrangements between owners and employees, based on the results of field work March and April 2014 and on the results of the exit survey;
- In the case that a displaced business does not reopen elsewhere, former employees are entitled to participate in the livelihood restoration program.
- Livelihood restoration program for the employees who lose their employment

Loss of Other Immovable Structures

- Compensation at full replacement value;
- Plus: all necessary transaction costs;
- Relocation assistance.

Loss of Agricultural Land

- Compensation at full replacement value or market value of affected agricultural land
- Replacement of lost agricultural land of similar potential under similar tenure arrangements with formal registration in replacement land with the relevant land authorities.
- Transfer of the land to the PAP shall be free of taxes, registration, and other costs.
- Allocation of a land shall be in an acceptable distance to residence.
- For those losing more than 20% of land, cash compensation will only be preferred upon confirmation of an alternate land or proof of purchase or identification of new site for relocation.
- Cash compensation of all immovable developments on the affected land, such as structures, etc
- Compensation for loss of perennial crops and trees and full replacement value

- Compensation for loss of seasonal crops at market value
- Plus: all necessary transaction costs;
- Relocation assistance (costs of shifting + assistance in re-establishing economic trees + livelihood rehabilitation assistance)
- Participation in livelihood restoration program

Note: affected people stated their preference for cash compensation; according to a rapid land availability survey, most of the PAPs own other plots of land in different villages. There is a willingness by the community to sell land to their neighbours since they belong to the same clan

Loss of Agricultural Land Sharecropper/Tenant

In case there is a formal contract/agreement with share cropper or tenant

- Allocation of compensation for permanent crops (full replacement value) according to the formal contract (between owner and sharecropper/tenant)
- Compensation for annual crops at market value (only if annual crops could not be harvested prior to date of loss) according to the formal contract (between owner and sharecropper/tenant)
- 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"
- Relocation assistance.
- Money management training
- Participation in livelihood restoration program
- Participation in money management training

In case there is no formal contract/agreement with share cropper or tenant

- PIU will seek to facilitate agreement between with owner on allocation of compensation for permanent crops (full replacement value) according to the informal arrangements (between owner and sharecropper/tenant).
- Compensation for annual crops at market value (only if annual crops could not be harvested prior to date of loss) according to the informal arrangements (between owner and sharecropper/tenant).
- Compensation at full replacement value for improvements on land to the documented owner of the improvement.
- Relocation assistance.
- Money management training.
- Participation in livelihood restoration program

Loss of Permanent Crops

- Compensation at full replacement value of the lost crops (average of 3-year market value of mature harvested crop plus associated labour costs)
- Participation in money management training

Loss of Access to Resources

Sand Digging Businesses on Riverbanks

- Assistance in finding new business sites
- Restoration allowance (costs for moving and re-establishment of business site plus all transaction costs)

- Compensation for loss of income for the period of time required to re-establish the business and restore associated income – typically two month income, with a maximum of one year income.
- Money management training
- In case the business cannot be restored: participation in livelihood restoration program

Fish Harvesting on River Mwache

- Assistance in finding new fishing sites
- Restoration allowance (costs for moving and re-establishment of fishing site plus all transaction costs)
- Compensation for loss of income for the period of time required to re-establish the business and restore associated income – typically two month income, with a maximum of one year income.
- Money management training
- In case the business cannot be restored: participation livelihood restoration program
- In case that the displaced business cannot be restored: participation in livelihood restoration program.

Note: Some of the affected businesses are organized as co-operatives (see entitlement matrix below)

Loss of Access to Resources During Construction

Access to the Mwache River for fishing

- Assistance in finding alternative fishing sites upstream during construction period
- Re-establishment of access to original fishing sites immediately after construction (2 month period after completion of construction)
- Severance allowance equivalent to a 2-month income from fishing)

Note: Vulnerable people, in addition to entitlements as listed above, are entitled to special assistance as needed to participate effectively in the resettlement process

Note: actual land market assessments will be done prior to determination of final replacement rates for residential land, commercial land and agricultural land.

Note: entitlements are presented separately for each category of affected household/entity; some households may qualify for entitlements in more than one category (for example, a household that is physically and economically displaced may qualify for the entitlements for both these categories. E.g. households losing their residential structure and losing agricultural land);

Note: Prior to the start of the compensation payment process, compensation agreements with affected people will be set up and signed.

Note: In spite of the fact that there is an overwhelmingly preference for cash compensation, for those losing more than 20% of land, cash compensation will only be preferred upon confirmation of an alternate land or proof of purchase or identification of new site for relocation.

Table 73. Entitlement Matrix

Affected Asset	Affected Right or Interest	Eligible Entity (Individual or Household)	Eligibility Conditions	Entitlements
AGRICULTURAL LAND	TITLED LAND: Land held under a registered title deed	Registered land (usually a physical person - one case in the Project-Affected Area) - INDIVIDUAL	Hold a registered land that was registered with relevant Authorities prior to the Cut-Off Date	<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. Transfer of the land to the PAP shall be free of taxes, registration, and other costs.</p> <p>Or Cash compensation equivalent to the market value of affected land.</p> <p>For those losing more than 20% of land, cash compensation will only be preferred upon confirmation of an alternate land or proof of purchase or identification of new site for relocation.</p> <p>Cash compensation of all immovable developments on the affected land, such as structures, etc.... - See below "Structures"</p> <p>Cash compensation of standing crops - See below "Crops"</p> <p>Relocation assistance (costs of shifting + assistance in re-establishing economic trees + livelihood rehabilitation assistance)</p> <p>Money management training</p>
	UNTITLED LAND: Land held under customary ownership, and not registered	Customary land owner (legally an unregistered), whether resident or non-	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. Transfer of the land to the PAP shall be free of taxes,

Affected Asset	Affected Right or Interest	Eligible Entity (Individual or Household)	Eligibility Conditions	Entitlements
		resident- INDIVIDUAL		<p>registration, and other costs.</p> <p>Or Cash compensation equivalent to the market value of land</p> <p>For those losing more than 20% of land, cash compensation will only be preferred upon confirmation of an alternate land or proof of purchase or identification of new site for relocation.</p> <p>Cash compensation of all immoveable developments on the affected land, etc.... - See below "Structures"</p> <p>Cash compensation of standing crops - See below "Crops"</p> <p>Relocation assistance (costs of shifting + assistance in re-establishing economic trees + livelihood rehabilitation assistance)</p> <p>Money management training.</p>
	<p>RENTED LAND: 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- INDIVIDUAL</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>

Affected Asset	Affected Right or Interest	Eligible Entity (Individual or Household)	Eligibility Conditions	Entitlements
				<p>Cash compensation of standing crops – See below “Crops”</p> <p>Relocation assistance.</p> <p>Money management training</p> <p>In case PAP is affected by loss of agricultural land/arable land: livelihood restoration</p>
	Landless or Squatters	Landless individual	Identified by the Village Resettlement Committee and local authorities prior to the cut-off date as Landless	Compensation to restore livelihood and ensure they will not be worse off. This includes compensation for residential structures and other assets (see STRUCTURES below), assistance relocating to an area where they can live and work legally, right to salvage assets and materials, and assistance with livelihood restoration.
RESIDENTIAL LAND	UNTITLED LAND: Land held under customary ownership and not registered	Customary land owner (legally an unregistered owner) – INDIVIDUAL	Hold, prior to the Cut-Off Date, an unregistered, customary land and be recognized as such by local customary authorities	<p>Replacement of lost residential land by resettlement residential land of similar size with formal recognition of ownership of the resettlement plot by the relevant administrative authorities.</p> <p>Transfer of the land to the PAP shall be free of taxes, registration, and other costs.</p> <p>Or Cash compensation equivalent to the market value for lost land</p> <p>Cash compensation of all immovable developments on the affected land, such as structures, wells, etc.... - See below “Structures”</p>

Affected Asset	Affected Right or Interest	Eligible Entity (Individual or Household)	Eligibility Conditions	Entitlements
				Relocation Assistance.
STRUCTURES	RESIDENTIAL HOUSES: Inhabitable houses used as a permanent residence	Owner - HOUSEHOLD	Be the locally recognized owner of an inhabitable house permanently used as residence	Resettlement house of similar or better quality on a resettlement plot Or cash compensation of the lost house per Kenyan law at full replacement value, taking into account market values for structures and materials Right to salvage materials without deduction from compensation Relocation assistance (cost of shifting + allowance)
	NON RESIDENTIAL STRUCTURES: Non inhabitable house or other structure of any design	Owner - INDIVIDUAL	Be the locally recognized owner of a non residential structure	Cash compensation at full replacement value, taking into account market values for materials Right to salvage material at the site without deduction from compensation. Relocation assistance to the PAP
CROPS	STANDING NON PERENNIAL CROPS	Owner of the crop - INDIVIDUAL	Be the recognized owner of a standing crop and be unable to harvest it prior to land occupation by project	Cash compensation at full replacement value (average of 3-year market value of mature harvested crop plus associated labour costs)
	STANDING PERENNIAL CROPS	Owner of the crop - INDIVIDUAL	Be the recognized owner of a standing perennial crop	Cash compensation at full replacement value (average of 3-year market value of mature harvested crop plus associated labour costs)
TREES	TREES LOST	Title Holder	Be the recognized owner of a	Cash compensation based on type, age and

Affected Asset	Affected Right or Interest	Eligible Entity (Individual or Household)	Eligibility Conditions	Entitlements
			Lost trees	productive value of affected trees plus 10% premium
Restricted Access to Water Sources	PAPs benefitting from a water source	Individual Household or	Be the recognized by Village Resettlement Committee to be benefitting from the water source.	<i>Replace water access:</i> Provide alternate access to water sources in the interim period. Ensure that the investments' design take into consideration different use and need for water and accommodate the users accordingly.
Restricted Access to a livelihood Resources	PAP Active in fishing; sand harvesting; stone quarrying		Those identified to have been actively fishing in restricted sites	Assistance in finding alternative fishing sites during construction period Re-establishment of original fishing sites immediately after construction (2 months) Severance allowance (equivalent to a 2 month income from fishing). Restoration allowance (costs for moving and complete re-establishment of business site plus all transaction costs) Compensation for loss of income for the period of time required to re-establish the business - typically three month income, with a maximum of one year income Money management training If business cannot be re-established: livelihood restoration program (see section 7.6)
Loss of cultural	PAPs benefitting from cultural	Households	Be the recognized by Village	<i>Consultation:</i> Undertake consultation with

Affected Asset	Affected Right or Interest	Eligible Entity (Individual or Household)	Eligibility Conditions	Entitlements
and communal assets such as burial sites, place of worship, social building	and communal properties such as burial grounds, places of worship, community centres, and social buildings		Resettlement Committee to be benefitting from Cultural asset that is going to be lost.	<p>affected households to determine appropriate dignified arrangements for relocation.</p> <p>Relocation allowance (costs for moving and re-establishment of burial and worship sites plus all transaction costs)</p> <p>Pay associated cultural cost of relocating the sites</p> <p>Meet reconstruction in case of social buildings, a church or a mosque.</p>

Note: Vulnerable people, in addition to entitlements as listed above, are entitled to special assistance as needed to participate effectively in the resettlement process

Note: actual land market assessments will be done prior to determination of final replacement rates for residential land, commercial land and agricultural land.

Note: entitlements are presented separately for each category of affected household/entity; some households may qualify for entitlements in more than one category (for example, a household that is physically and economically displaced may qualify for the entitlements for both these categories. E.g. households losing their residential structure and losing agricultural land);

6.3.4 Overview of Compensation Packages for the Main Categories of Project-Affected People in Mwache

Based on the eligibility matrix, **Table 70** hereunder presents an overview of eligibility criteria and compensation packages for each of the main categories of Project-Affected People identified.

Table 74. Eligibility and Compensation Packages for the Main Categories of Project-Affected People

Category of PAP	Eligibility Criteria	Compensation Package
<p>A: 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"> -Resettlement house of similar or better quality on a resettlement plot (best practice) -Or cash compensation of the lost house at full replacement value. -Replacement of lost agricultural land of similar potential under similar tenure arrangements near the resettlement site - -For those losing land and are permanently resettled, cash or in kind compensation will be the preferred option. -Cash compensation of all immovable developments on the affected agricultural land, such as structures, canals, soil improvement, etc.... -Cash compensation for loss of any non-residential structures at full replacement value -Cash compensation of standing perennial crops at replacement value and of non-perennial crops at market value. -Cash compensation for loss of any tree based on tree type, age and productive type -Moving (relocation) allowance if the household vacates the Project-Affected Area at a given date -Relocation allowance for any grave lost, worship site lost

Category of PAP	Eligibility Criteria	Compensation Package
<p>B: Non-Permanent residents/tenants or sharecroppers of agricultural land</p>	<p>Be recognized by local traditional authorities as a non-permanent resident in the Project-Affected Area and as a customary land holder of agricultural land located in the Project-Affected Area for more than one year</p>	<p>and associated cultural costs.</p> <p>- Livelihood Restoration Package</p> <p>-Cash compensation of the lost non-permanent house at full replacement value.</p> <p>- Replacement of lost (agricultural) land similar potential under similar customary tenure arrangements anywhere in the Area</p> <p>-Cash compensation of all immovable developments on the affected agricultural land, such as structures, canals, soil improvement, etc...</p> <p>-Cash compensation for loss of any non-residential structures at full replacement value</p> <p>-Cash compensation of standing perennial crops at replacement value and of non perennial crops at market value</p> <p>-Cash compensation for loss of any tree based on tree type, age and productive type</p> <p>- Moving (relocation) allowance if the household vacates the Project-Affected Area at a given date.</p> <p>-Relocation allowance for any grave lost, worship site lost and associated cultural costs.</p> <p>- Livelihood Restoration Package as per section 6.7</p>
<p>Squatters</p>	<p>Be recognized as owners of crops, trees and structures as well as other assets on the project affected area</p>	<p>Cash compensation of the lost non-permanent house at full replacement value.</p> <p>Cash compensation of standing perennial crops at</p>

Category of PAP	Eligibility Criteria	Compensation Package
		<p>replacement value and of non perennial crops at market value</p> <p>-Cash compensation for loss of any tree based on tree type, age and productive type</p> <p>- Moving (relocation) allowance if the household vacates the Project-Affected Area at a given date.</p> <p>-Relocation allowance for any grave lost, worship site lost and associated cultural costs.</p> <p>- Livelihood Restoration Package as per section 6.7</p>
Tenants	Be recognized as owners of crops, trees, structures or any other assets present in affected land	<p>Cash compensation of the lost non-permanent house at full replacement value.</p> <p>Cash compensation of standing perennial crops at replacement value and of non perennial crops at market value</p> <p>-Cash compensation for loss of any tree based on tree type, age and productive type</p> <p>- Moving (relocation) allowance if the household vacates the Project-Affected Area at a given date.</p> <p>-Relocation allowance for any grave lost, worship site lost and associated cultural costs.</p> <p>- Livelihood Restoration Package as per section 6.7</p>

6.4.DETERMINATION OF COMPENSATION RATES

For the project area, there is no land transactions recorded and therefore comparison of similar acquisitions for land in areas with similar conditions was adopted. The values adopted for a major mining project and sugar plantation in the adjacent Kwale District was adopted with minor adjustments for the current exercise. The agricultural office valuation for crops was consulted for compensation for crops since crops formed an equally major item for compensation and as an indicator for the land potential for agricultural purposes.

Residential Structures

Approach

Loss of residential structures will affect households in the 18 villages close to the Project site.

Rates for the replacement value of residential structures were established with the support of local enterprises for construction, during 2014 fieldwork by TTR for the RAP.

However, the rates presented in **Table 65** below refer to generalized types of houses. They indicate different levels of housing, which will be reflected by different compensation rates in order to meet the respective replacement values.

The compensation rates for residential structures were consulted with the resettlement committees in the villages. The committees signed off the compensation approach. Some of the committee members considered the rates for residential structures as too low.

Each affected structure will be individually validated during the exit survey, by an official valuer on behalf of the NLC and District land official under consideration of the compensation approach and the respective rates of the RAP (see compensation process, below).

Note: according to consultations with land district officials, there are no official compensation rates for land, residential structures or businesses. Officers stated that determination of compensation depends on the respective property to be expropriated and is done on a case-by-case basis. Compensation is based on market value, not on replacement value. Actual assessments will be performed prior to the determination of final replacement rates.

Compensation will comprise all necessary transaction costs related to the purchase of land and residential sites.

Table 75. Compensation Rates for Residential Houses

Type of house	Replacement Value (Kshs)	Replacement Value (USD)
<ul style="list-style-type: none"> 3-4 room house, 70m² in surface, cement bricks with cement finish, concrete pillars, corrugated iron roof 	100,000	1,300

6.4.1 Structures Calculations

Residential Houses

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

- PAPs in Categories A (permanent residents of the Project-Affected Area)

The replacement value of houses has been investigated during the Socio-Economic Baseline Survey. Construction unit prices in the Project Area were observed to be the following (March-April 2014):

- For a new house of standard dimensions described above would need about 100,000 Ksh (about USD 1,300):

- Mason's labor 30,000 Ksh
- Nails and wood= Ksh 15,000
- Roofing sheets of aluzinc x 40,000Ksh
- Windows, doors=10,000 Ksh
- Transport costs=5,000 Ksh
- Cement Costs=10,000 Ksh

Total: 100,000 Ksh.

For purpose of cash compensation, all residential houses will be categorized as follows, regardless of their current condition for the purposes of compensation:

- Walls of mud, roof in aluzinc or other metallic material and cement floor.

Additional features, such as verandas, cemented floors, plaster, etc., will be valued on a case-by-case basis at full replacement value and added to the result of the above calculation. This is justified by the relative scarcity of such features, which does not make it necessary to have a standard calculation rate for these.

Non-Residential Structures

Non-residential structures include latrines, sheds and verandas of various kinds, dish racks, kitchens, etc. Except for pit latrines, these structures are usually almost entirely moveable, and as long as the owner will be able to salvage the materials, the loss will be very limited. The compensation at full replacement value is therefore mainly intended to cover the labor needed to dismantle and re-establish the structure elsewhere.

The following rates will be applied:

- Latrines: 20,000 Ksh (equivalent to 4 days of labor at least, which is sufficient to dig a replacement pit and construction of the same),

Non-residential structures that would not fall in one of the above categories will be valued and compensated on a case by- case basis.

6.4.2 Land-Residential and Agricultural

Loss of residential and agricultural will affect households in the 18 villages close to the Project site.

Land Price Valuation

Multilayer analysis was made for the evaluation fixation of land price of the project site for the compensation.

Reference on Land Prices: The project area does not have active land purchases and therefore land prices in Kwale or Kilifi were considered in making a determination of the land prices. Internet surfing for the agriculture land of the coastal area of Kenya was made to know the land price. As per the search found for the same agriculture land price ranges from Kshs 55000-120,000-250,000 per acres (<http://kilifi.olx.co.ke/agricultural-land-with-river-running-through-it-kshs-55000-per-acre-iid-455428801>; <http://mombasa-island.olx.co.ke/1000-acres-lungalunga-good-for-ranch-south-coast-120-000-per-acre-iid-457705019>; <http://south-coast.olx.co.ke/1000-acres-ramisi-south-coast-iid-443846760>)

Socio-Economic Study: Project affected person's view and perception on the land price / value for compensation was recorded during the focus group discussion and interviews at the time of socio-economic survey of the PAPs. The price range quoted by the PAPs varied from Kshs 150,000 – 500,000 per acre with an average value of Kshs 250,000 per acres. The over expectation of the PAPs for the land price is well understood and this is made complex by the fact that the local communities are further aware that the Standard Gauge Railway will affect part of their plots hence expectations are high. Therefore, the PAPs quoted price is taken as guide to evaluate the land price.

Fixation of Land Price and Compensation for Land Loss

Consultant realized that the land market of the project area is not well developed. The market price of the project area is not possible to assess based on PAPs expectation on one hand and government fixed land price on the other hand. Therefore, in the light of multilayer study as above, *consultants have fixed the land price of the affected person little on higher side at the level of USD 3,500 / ha.*

Based upon land price fixed for the project area, compensation for total affected land due to project, (i.e., 855.31 Ha) is estimated and budgetary allocation of land loss is made as given in RAP budget.

Table 76. Compensation Rates for Residential and Commercial Land in Project Area

Compensation/Ha	KSH	USD
855.31	254,454,725	2,993,585

Source: TTR, RAP,

6.4.3 Business Structures

There is only one business structure in the project-affected site (irrigation area), which will be compensated, and owner provided with livelihood restoration. New business structures will be validated on case-by-case base during the exit survey. Replacement costs then will be

calculated based on actual cost of construction/re- establishment of a structure of at least equal quality as the affected structure.

Note: According to a rapid land availability appraisal, agricultural land is available for purchase in the vicinity of the area. Affected people will be assisted by the district land offices in finding alternative agricultural land to purchase from their compensation money.

6.4.3 Permanent Crops

In situations where the farmer cannot be given sufficient notice to harvest his/her crop, compensation will be paid based on the market value of the non-perennial crop.

The calculation of the full replacement value requires consideration not only of the product of the crop, but also the cost of re-establishing the crop (seedlings, soil preparation, fertilizers, others), as well as the lost income during the period needed to re-establish the crop up to the degree of maturity of the lost crop.

Compensation rates were calculated in compliance with the full replacement value principle, based on the following:

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

The compensation amount **C** is determined by application of the following formula:

The formula for the loss of seasonal crops is $C = V \times A$

To calculate the compensation for losses of production from annual crops, the market value (**V**) is multiplied with the area of the affected plot or the affected part of the plot (**A**).

For affected plots with mixed crops, the most important crop is considered.

For affected plots, the most important crop for the last three years prior to the cut-off date is considered.

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

Compensation for crops will be done on the basis of the requirements of Kenyan laws. Under this law, landowners and leaseholders are entitled to be compensated at market value for land; tenants for crops and property on the land that they rented; property owners for the value of any property on expropriated land.

Table 77. Commercial Trees and Crops Affected

TREES	TOTAL
Baobab	163
Pawpaw	123
Mirabai	4805
Mporojo	78
Bananas	5564
Guava	872
Coconut	4057
Sisal	10176
Blue Gum (Eucalyptus)	733
Pineapple	78
Sugarcane	5561
Mkone	1622
Mkilifi	477
Mkanju	215
Mibalazi	538
Mwanga	1707
Mlozi	80
Cashewnut	109
Mtomoko	63
Mware	64
Citrus	61
Mbuyu	59
Mitanga	12
Mzambarau	14
Mkalakala	1
Miduta	353
Muwawa	880
Mgogodera	8
Migoza	43
Mingongo	54
Mikwaju	371
Acacia	82
Lemon	28
Mangos	2466
Misanduku	1633
Mchonga	1
Mahana	3

Mnago	49
Mkulu	208
Total	43,411

$$C = V \times D + CP + CL$$

Table 78. The parameters in the compensation formula have been obtained as follows:

	Parameter	Information Source
V	Product of the market value of the fruit by the yield	<ul style="list-style-type: none"> - FAO Statistics - National Statistics - Survey of regional markets - Direct interviews with affected farmer - Confirmation by local agronomist
Note: figures from national and international statistics were obtained for the past three years to the cut-off date (2011-2014) as far as available; the highest figure was taken for calculation of compensation rates		
D	Average period of time required to re-establish the tree to a mature production level, in years	<ul style="list-style-type: none"> - Secondary sources of information, publications
CP	Cost of initial planting and cost of labor	<ul style="list-style-type: none"> - Local agronomist - Affected farmers
CL		

For more information on compensation rates, see Appendix 4.

Table 79. Total Permanent Crop Compensation Cost

Total Number of Crops	43,411
Total Cost/Compensation	Ksh. 11, 033,872

6.4.5 Annual Crops

Compensation of annual crops is according to the market value of the crop. Market values were established under consideration of the following sources:

Table 80. Information Sources – Market Price of Annual Crops

Level of Information	Details
International Level	FAO Statistics http://faostat.fao.org/site/703/DesktopDefault.aspx?PageID=703#ancor Producer prices 2011-2014
National level	<u>National agricultural statistics</u> Ministry of Agriculture, Livestock and Fisheries
Local level	Information from resettlement committees of affected villages (2014) = yields of 4 most important crops/ha in a good year

Market prices were obtained for the past three years prior to the cut-off date (if available).

6.4.6 Compensation Rates Update

An update of the current land market prizes contained in this RAP will be done prior to the determination of final replacement rates. This is due to the fact that civil works for the Project are not expected to commence immediately after Project approval.

Market prizes for crops will be updated prior to the final determination of compensation rates.

6.5.1 Compensation Process

General

The compensation process will be performed under the project policy and according to the entitlements as presented above. The overall process will be embedded in the formal procedures for expropriation and valuation in Kenya and executed through the National Land Commission (NLC) in collaboration with land offices and Kwale County Government.

Compensation must be paid before the impact occurs:

For impacts from construction: compensation has to be paid and the entire compensation process for all affected people has to be completed by the start of Year 1 (= start of construction)

For impacts from operation: compensation has to be paid and the entire compensation process for all affected people has to be completed by the start of Year 5 (= start of operation)

Exit Survey and Agreement

Prior to the start of the compensation payment process, compensation agreements with affected people will be set up and signed. This will be done through an exit survey, to be carried out by the official valuers of the land office at Kinango District. The exit survey is to confirm the results of the surveys for validation of losses carried out March-April 2014 through the performance of the respective legal procedure.

The resettlement committees and PIU officers will participate in the exit survey. Agreement of the respective affected household to the exit survey documentation and the resulting determination of compensation will be officially documented in the compensation agreement. Both spouses of affected households shall sign off compensation agreements.

For households where partners are not officially married or for polygamous partnerships, the project will request the head of household to sign the agreement together with all partners, so that all partners can document their entitlement to compensation. Exit survey results will be entered into the PIU compensation database.

Issue of Cash Compensation

As stated above, compensation has to be paid timely in advance to the impact. The National Land Commission will manage the disbursement of cash compensation.

Payments will be to bank accounts of affected households. PIU and the respective bank will assist people who do not have an account with the establishment of a bank account, any costs for opening an account will be paid by the project. Accounts should be in the names of both spouses. Consultation results show that there is awareness of potential misuse of compensation money.

PAPs will be allowed to salvage any materials in the structures they own at the current village.

Monitoring

There will be monitoring from the very start of the compensation process. Monitoring of the compensation process will be contracted to an external entity. During the process, weekly progress reports will be delivered to PIU management. Any delays in payments will be forwarded immediately to KWSCR/PMU.

A special focus in monitoring will be on the people affected by loss of their residence. They will be tracked individually in order to follow up the process of finding a new residential site and to establish a new house timely before the affected building has to be left. Construction will not start until all people affected by loss of residential—or business structure will have properly moved out of their premises.

Grievances

For grievances and complaints in the context of compensation, affected people can make use of the Project's grievance mechanism.

Grievances, which stay unresolved, will be reported to PIU management and KWSCR/PMU order to facilitate a timely solution.

Note: PAPs and land users who were absent at the time of the village census survey, will be contacted as soon as the Project is approved and surveyed according to the self-validation exercise. They will be integrated into the exit survey.

Table 81. Compensation Process for Construction Impacts (Year 0, prior to commencements of civil works)

Activity	1	2	3	4	5	6	7	8	9	10	11	12
	Q ₁			Q ₂			Q ₃			Q ₄		
Set-Up of PIU: tender, contract staff as per section 10 of RAP												
Final design of civil works												
Compensation Process												
Contracts for compensation disbursement												

Exit surveys/compensation agreement for HH affected by construction, extension of survey period corresponding to availability of final construction area pattern																						
Disbursement of compensation																						
Livelihood Restoration																						
<i>Final arrangements for livelihood restoration measures: small business management, small business support; PIU livelihood restoration officer (business expert), district officers; consultation of affected businesses</i>																						
<i>Training of Trainers for Money Management Training:</i>																						
<i>Final arrangements for livelihood restoration measures: agricultural enhancement measures/livestock enhancement: PIU livelihood restoration officer, agronomists of districts; other district officers (social, community development), consultation of affected people (PAP losing agricultural land due to construction)</i>																						
<i>Advisory service to affected people for enrollment in livelihood restoration</i>																						
<i>Enrollment HH affected by construction in livelihood restoration: small business and agricultural enhancement</i>																						
<i>Start of Livelihood Restoration: Small business support/small business development</i>																						
<i>Start of Livelihood Restoration: agricultural enhancement and livestock</i>																						
<i>Implementation of Money Management Training for affected people: district officers</i>																						
<i>Preparation Process for sustainable livelihoods measures (priority on affected communities and ex-PAPs): PIU and County Government</i>																						
<i>Grievance Process</i>																						
<i>Training of Resettlement Committees for the management of grievances on local level</i>																						
<i>Maintenance of Grievance Management Process as per section 7</i>																						

Note: the table above refers to the preparation period, prior to the commencement of civil works. Civil works will only start in year 1 (after year 0, the preparation period).

6.5.LIVELIHOOD RESTORATION PROGRAM

6.5.2General

The livelihood restoration programs of the RAP aim to enable project affected people to fully restore their livelihoods and improve living standards

- through capacity building for more profitable and sustainable use of livelihood assets
- through capacity building for the establishment of alternative sources of livelihood.

Livelihood restoration programs contain subsidies (in the amount of 500 USD) to be used against investments related to the respective program.

Livelihood restoration programs are supplemented by micro-credit schemes in order to support sustainability of restored livelihoods on the long term and to provide for improvement of living standards.

Livelihood restoration programs target the following areas

- Agricultural enhancement,
- Improved livestock keeping
- Provision of access to income generating activities: small business development;
- A micro-credit program available for affected households is connected to the livelihood restoration programs

In addition, all affected households will have access to a financial training program to enhance the sustainable use of cash compensation.

Preparation and Implementation through Kwale County Government

Livelihood restoration programs will be implemented through technical staff of Kwale County Government with the support of capable NGOs.

The final details with regard to allocation of tasks to individual officers will be set immediately after project approval, at the start of year 0, through cooperation of PIU (livelihood restoration officers) and the County. Affected peoples enrolment period for the livelihood support programs will be of three years duration.

The County executives recommended the consideration of frameworks and formats of existing projects and interventions within the design of livelihood restoration programs, e.g. Kenya Coast Development Program.

Small business development measures will be implemented with the support of the Kwale County Government and PIU

Livelihood activities under the RAP are covered by the RAP budget.

In order to achieve a maximum of synergies, the design of livelihood restoration programs considers the measures under the sustainable livelihood component (also to be implemented through the County Government) and vice versa.

6.5.3 Baseline Influencing Factors

Livelihood restoration programs are tailored to existing baseline conditions and consider the project impacts on the livelihoods of affected people.

Those PAPs who have agricultural land (that will be lost), livelihood restoration has a focus on the enhancement of agriculture to achieve higher productivity and practice sustainable use of agricultural land so that incomes from agricultural land would increase and perspectives for long-term income security from agriculture would be enhanced. Agricultural enhancement has a focus on those households who will maintain sufficient areas of agricultural land to serve as sustainable livelihood asset.

As a consequence, respective livelihood restoration measures will rather focus on the development of skills for alternative livelihoods, other than agriculture (i.e. small business development component of the livelihood restoration programs).

6.5.4 Gender Aspects

In general, both spouses of affected households (or all partners for non-marriage or polygamous partnerships) are entitled to participate in livelihood restoration programs.

Women will be specifically targeted through gender sensitive engagement and training methods, and through specific activities in both, the agricultural field and income-generating activities.

Program training activities will consider specific needs of women, e.g. with regard to training hours (in the context of the every-day working schedule of women).

6.5.5 Eligibility

Entitlements to livelihood restoration are presented in the entitlement matrix. Households are entitled to livelihood restoration in case of

- Loss of arable land
- Loss of business, in case business cannot be re-established
- Loss of agricultural land (only occurs due to construction), or access to agricultural land
- Loss of employment, in case employment cannot be re-established

Prior to the start of the programs, affected households will have access to advisory services in order to facilitate their choice for livelihood restoration. These services will be provided by the Kwale County Government.

6.5.6 Agricultural Enhancement – Outline

Agricultural enhancement measures will be delivered under the framework of existing programs

6.5.7 Improved Livestock Keeping-Outline

This livelihood restoration package will build on the success of existing programs implemented by the GoK or CDA.

Each beneficiary household has to build a shed adequate for receiving one or two cattle;

Once this commitment is met, the beneficiary household receives one heifer (costs about 500 USD/heifer);

Beneficiaries are further supported in the following ways:

- Veterinary services (immunization and periodic health checks on the animals) and community based animal health interventions
- Support in growing and harvesting fodder crops;
- Training in integrated crop/livestock systems
- Animal nutrition training and support.
- Heifers will be sourced from local breeds.

6.5.8 Diversification of Livelihood, Small Business Development – Outline

This livelihood restoration program has a focus on the promotion of rural entrepreneurial activities and economic activities not requiring land.

This package includes the following:

- Different options for capacity building (e.g. commercial activities, agribusinesses such as bee-keeping, processing of farm products, e.g.)
- Technical and managerial training for this activity;
- Subsidies (in the amount of 500 USD per household) against the purchase of equipment related to this activity;
- Training and further technical assistance will be delivered by experienced organizations with a permanent presence in the project-affected area, i.e...

In this program, too, women will be targeted as a specific group of interest, with specific engagement methodologies and specific activities and business areas.

6.5.9 Financial Training for Sustainable Use of Cash Compensation

Experience has shown that cash compensation, although very sought after by many household heads, could be detrimental in the medium term, to other household members, particularly the females and the children; the Project provides for measures to support sustainable use of cash compensation and for mechanisms within the overall monitoring framework to follow up the use of cash compensation.

Financial training will be offered to each affected household who receives cash compensation and will focus on:

- Assistance for opening and management of a bank account;
- Financial planning for the household;
- Planning of investments related to the household's participation in livelihood restoration programs;
- Saving strategy;
- Management of existing debts;
- Households will be required to enroll on this training when they sign off the compensation agreement. Both spouses/all partners shall participate in the training.

Training will start in advance to the disbursement of compensation and be continued for a period of 1 year. The management of cash compensation will be integrated into the overall monitoring program.

6.5.9 Micro-Credit Program

Micro-Credit schemes for affected people will be made available through Micro Enterprise Support Organizations (MESO) in order to foster sustainability of livelihood restoration and improvement of living standard. Micro-credits will be available for all PAPs who participate in livelihood restoration measures.

The respective information and related procedures will be part of the money management training. Furthermore, MESOs will provide personal advisory services on micro-credits.

CHAPTER 7. ASSISTANCE TO VULNERABLE PEOPLE

7.1.OVERVIEW

Based on the identification of vulnerable households for the RAP, the individual support measures will be developed early in RAP implementation (start of year0), in order to ensure that individual needs in the context of displacement are fully considered. Consultations will be undertaken under the lead of PIU, through local resettlement committees.

Table 82. Overview of Vulnerable People

Group of Vulnerable People	Identification
Female Headed Households	127 Women Headed Households
Household heading orphans	67 households headed by orphans
HIV/AIDS affected households	Geographic focus on all Villages
Elderly and disabled people	All groups of affected persons
Women in polygamous settings	All polygamous households to receive additional support

Individual Support for Vulnerable People

The Project through the Project Implementation Unit (PIU) will assist vulnerable people insofar as they are affected by the displacement and resettlement process.

Vulnerable individuals in affected households will be consulted by local resettlement committees in affected communities; based on the identification of vulnerable people in the RAP (see above); resettlement committees will receive training on

- the concept of vulnerability and the issues to be considered in the Project context
- how to conduct household visits
- how to assess individual needs for assistance

Based on the consultation of vulnerable individuals, appropriate types of assistance will be developed by PIU, in cooperation with the resettlement committees and the social officers of the County Government of Kwale.

Envisaged Types of Assistance

- In depth explanation of exit survey process, assistance to negotiate compensation agreement, sign/co-sign compensation agreement, provide in-depth understanding of rights (e.g. for female spouses or for partners in polygamous settings)
- Compensation process (opening bank account, easy to understand money management training, in – depth explanation of rights), special focus on women, on elderly and on orphans heading households; Assistance in the post payment period to secure the compensation money

- Participation livelihood restoration (facilitation of participation for women, for orphans heading households), special provisions for HIV/AIDS affected persons; special consideration of elderly
- Counseling in matters such as family issues, health, money management, and livelihood restoration;

Health care if required at critical periods: transition period; the following process will be implemented:

- In depth information of the resettlement committees about the Project policy with regard to vulnerable people;
- Consultation of vulnerable people amongst the affected households through the resettlement committees;
- Identification of assistance measures on a case-by-case basis, with the following process:
 - Review of each case by PIU community liaison officer, together with a resettlement committee member, including a visit at home and a detailed interview
 - Discussion of the assistance measures required between the PIU officer, the resettlement committee member and the vulnerable person
 - Report to the resettlement committee on required measures
 - Review and decision by the committee
 - Implementation of assistance measures
 - Monitoring

The RAP contains a specific budget for assistance measures for vulnerable people.

Consultation meetings with existing community development programs came up with agreement that this group will benefit from the livelihoods improvement facilities offered by these programs and a closer monitoring for implementation will be done by all stakeholders.

7.2.PROCESS

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

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

4. Identification of assistance measures on a case by case basis, with the following process:

- Review of each case by PIU with one sub-committee member, including a visit at home and a detailed interview,
- Discussion on required assistance measures between the two individuals above and the vulnerable person,
- Report to the sub-committee on proposed assistance measures,
- Review and decision by the sub-committee,
- Implementation of assistance measures,
- Monitoring.

7.3.KWALE COUNTY DEVELOPMENT SUPPORT

This Component is part of the livelihood improvement (sustainable) for the wider Kwale County aims to promote benefits sharing in Kwale County, where the Mwache Dam is located, through investments in water supply and sanitation in rural communities and small towns; community-based watershed management activities, and improvement of community livelihoods. By supporting these activities, Component 2 will bring near-term and medium-term benefits to Kwale County, in parallel to the planning and preparation for the large-scale infrastructure that would supply water to Kwale (from Mwache, and other sources) in the long-term. In addition, this component will finance a demonstration irrigation scheme to inform design of a large-scale irrigation program in Kwale in the future.

Water Infrastructure Investments, will focus on the preparation and implementation of water-related infrastructure in Kwale County. In particular, it will support (i) increasing access to water supply and sanitation services in small towns and rural communities, and (ii) final preparation and implementation of a demonstration irrigation project for about 100 ha.

This activity will support increased access to water supply and sanitation in small towns and rural communities in Kwale County.

Water supply at the coast and particularly in the urban areas is based mostly on a bulk water supply system. Currently, the Coast Water Services Board is responsible for efficient and economic provision of water and sanitation services in the six counties in the coastal region, including Kwale County. CWSB has contracted water services providers for provision of water and sanitation services. Under the devolved system, provision of water and sanitation services is a county government function, and this continues to be provided by existing water companies. Kwale Water and Sewerage Company (KWAASCO) is thus responsible for provision of water and sanitation services in Kwale County.

Sustainable Livelihoods Improvement

This activity seeks to improve incomes in Kwale County overall, through support of community-driven development activities that provide sustainable livelihood support.

This activity is intended to improve sustainable livelihood paradigms and project benefit sharing for the largely rural communities in Kwale County. It will also focus in developing alternative livelihood activities for communities currently dependent on the unsustainable use of natural resources. As such, it will focus on income-generating activities that also support water security and climate resilience in the county. These could include the development of village-based manufacturing capacity for items such as water source protection, low-cost irrigation and agricultural water management, crop cultivation in zai pits, production value addition, composting, establishment of tree nurseries (for fruit and woodlots), sustainable brick making, development of alternative energy products, improved cook stoves, bee keeping, household-level pond aquaculture, modern livestock management, etc.

7.3.1 Overview: Preparation and Implementation of Livelihood Restoration Measures

The timely preparation of the final designs of livelihood restoration programs and the proposed **Kwale County Development Support** measures is of key importance in order to support livelihood restoration for PAP effectively and in order to enhance Project benefits for the population in the affected – and the wider Project area (target areas of sustainable livelihood improvement). The table below provides an overview on tasks and responsibilities related to the preparation of the livelihood restoration programs for year 0, the year of Project preparation.

Note: Households will be provided with advisory services by PIU in order to facilitate enrollment in livelihood restoration programs. Based on the current status of information, for households affected by construction it is assumed that affected businesses will enroll to business training measures. Due to the fact that virtually all affected households in the Mwache villages are involved in business activities, it is assumed that a part of the households, who will lose agricultural land, will also prefer business training to agricultural enhancement (agricultural enhancement training will only be efficient once alternative land has been purchased/allocated).

Table 83. Livelihood Restoration: Overview on Preparation/Implementation during pre-construction phase

Activity	1	2	3	4	5	6	7	8	9	10	11	12
	Q ₁	Q ₂		Q ₃			Q ₄					
<i>Installation of PIU at project site; Establishment of working groups for livelihood restoration preparation with districts; joint kick off meeting with PIU, executives of County and relevant district officers,</i>												
<i>Final Arrangements of livelihood restoration measures: small business management, small business support; PIU livelihood restoration officer (business expert), district officers; consultation of affected businesses</i>												
<i>Training of Trainers for Money Management Training:</i>												

CHAPTER 8. GRIEVANCE MANAGEMENT & REDRESS

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.

8.1. 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.

8.2. MANAGEMENT MECHANISM

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 the PIU 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 the PIU 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.
- The PIU 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; this lawyer will be available at the PIU on site office on 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;

8.2.1 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 PIU Community Liaison Office, to be established at the Project site;
- At CDA offices in Mombasa.

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 the PIU 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 Court⁵⁷ or high court that may delay the implementation of Mwache Dam project. Appeals to the court will only be occasioned if the grievance procedure fails to provide a result.

8.2.2 Four Levels of Grievance Management

First Level: Duruma Council of Elders

The Duruma community is deeply traditional and observes a historical way of life based on clanism. Durumas are part of the Mijikenda and comprise of 14 clans who are guided by Council of Elders. The Council of Elders is a supreme body that plays a significant role among the Duruma and is respected. They have the mandate to resolve conflicts including land related conflicts; natural resources related conflict e.g. pasture; interclan conflicts; among others. The Council of Elders also presides over rights of passage including circumcision, marriage rights among others.

The **Duruma Council of Elders** is composed of people of good reputation and who have knowledge of customs and culture of the Duruma. Each of the two clans i.e. Arima and Amwezi constitute their individual council independent of the other. These two separate councils can only congregate together during a major occurrence that affects all the Durumas.

Council members are not elected, as long as one has a good reputation in the society and is regarded as impartial then he is welcomed in the council. Women are not part of this forum. There is no term limit, one serves until they are too old and retire on their own volition or when they die. The other way to be removed from the council is if a person's reputation becomes negative, then the council members will not involve them in council matters. The person may not be formally informed that he is no longer a council member, but will not be informed of meetings and decisions made, basically he is sidelined.

Council of Elders say/decisions is strongly respected. In case a person defies their decision, the person will be fined and/or banned from attending any social functions e.g. burials, marriages or any other function that brings the community together. The person is may be excommunicated from the community.

⁵⁷ This is court deals with resettlement and land disputes

This RAP prefers the first level of grievance or conflict redress on land related issues as a result of this project to be handled by the Council of Elders as an organ that has as part of Duruma culture been handling land related disputes. Grievances not resolved by the Council of Elders will be taken to the second level.

Second Level: Village level in Cooperation with PIU

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 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 PIU grievance management and the construction contractors staff in charge for grievances. During construction, weekly reports should be issued to senior management (PIU) 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.

Resettlement committees/village leaders will obtain training from the PIU in order to address issues, which can be resolved by explanation (i.e. explanation of resettlement policy, compensation strategy or entitlement determination, construction related regulations). The Project Implementation Unit (PIU) takes note of the grievances filed with the village chiefs during meeting routines and regular visits of all affected villages with consultations. Furthermore, regular meetings will be performed with key staff of the construction contractor. All grievances will be registered within PIU and entered in the electronic database.

Grievances, which were not resolved on the village level, will be reviewed. PIU grievance officers 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 PIU 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

Third Level: Mediation Committee (District)

The third 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 PIU was not acceptable to the complainant.

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

- One representative of the District Administration;-National Government
- One representative of County Administration; - Kwale County Government
- Land Officer
- One representative of the Project Implementation Unit (PIU), 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.
- Mwache Dam Committee Members-*this committee is already existing*

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.

Fourth Level: Resort to Justice

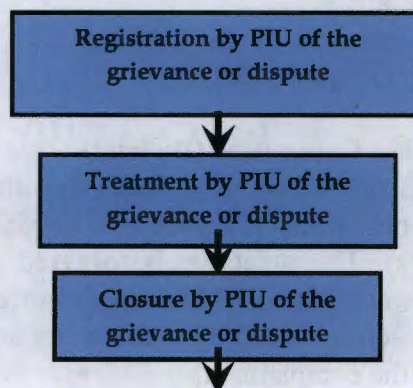
In case this mechanism will not allow an amicable agreement to be reached, the complainant or the defendant can resort to Justice (and could at any time).

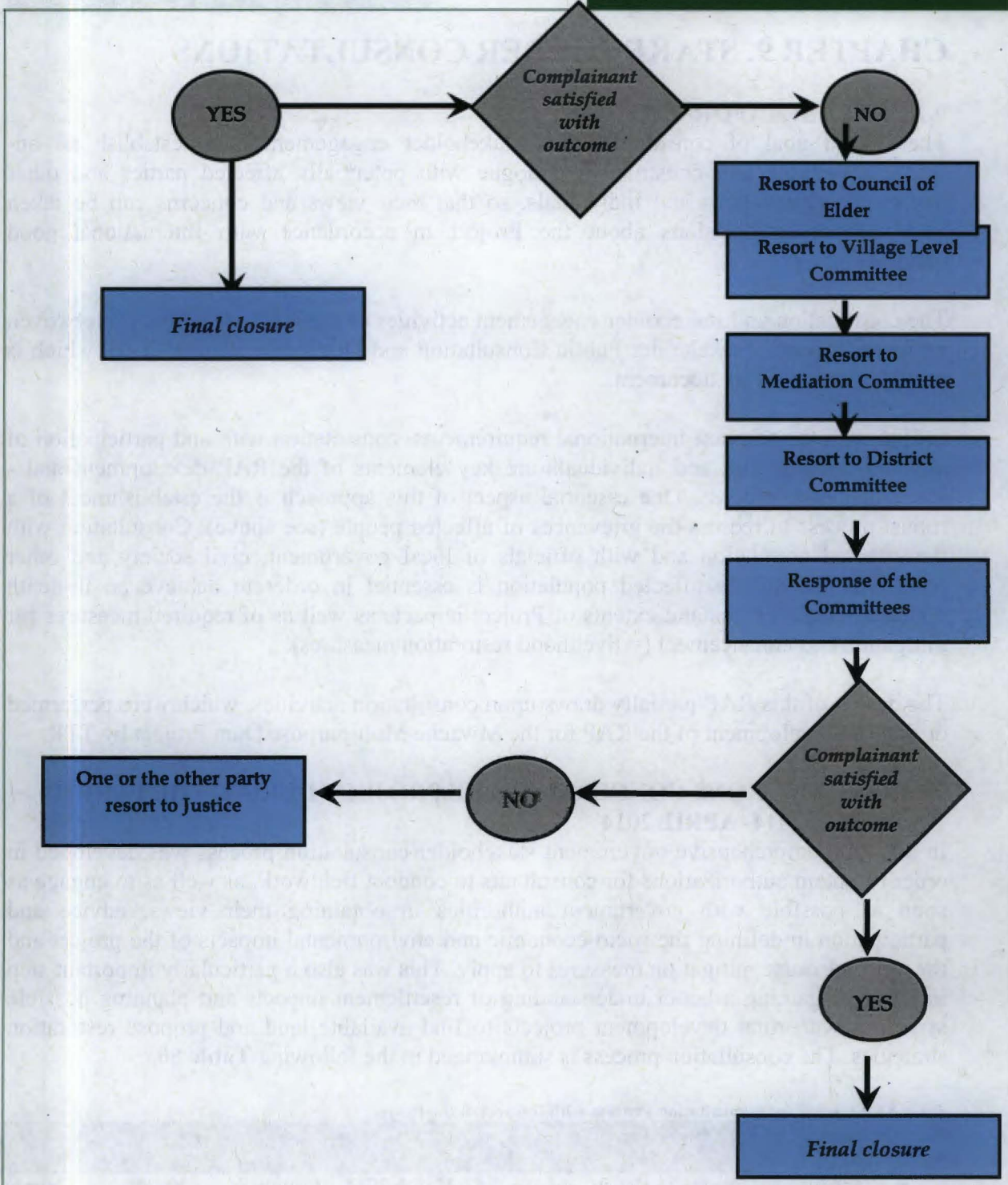
8.2.3 National Land Commission Grievance Mechanism

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 12** below provides an overview on the grievance management mechanism.

Figure 12: Grievance/Dispute Management Mechanism





CHAPTER 9. STAKEHOLDER CONSULTATIONS

9.1.GENERAL INFORMATION

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

The consultation and stakeholder engagement activities of the RAP are entirely interwoven with the Project's Stakeholder Public Consultation and Disclosure Plan (PCDP), which is provided in a separate document.

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

The design of this RAP partially draws upon consultation activities, which were performed during the development of the RAP for the Mwache Multipurpose Dam Project by TTR.

9.2.CONSULTATIONS CONCERNING THE PROJECT DURING THE PERIOD MARCH 2014- APRIL 2014

In 2014, a comprehensive government stakeholder consultation process was developed in order to obtain authorizations for consultants to conduct fieldwork, as well as to engage as soon as possible with government authorities in obtaining their views, advice and participation in defining the socio-economic and environmental impacts of the project and the most adequate mitigation measures to apply. This was also a particularly important step in terms of gaining a better understanding of resettlement impacts and planning possible synergies with rural development projects to find available land and propose restoration strategies. The consultation process is summarized in the following **Table 80**.

Table 84. Stakeholder Consultation Process with Respect to the Project

Consultation Process and Objectives	Date	Level	Participants
<ul style="list-style-type: none"> • Introduce consultants to County and district authorities and testing with authorities the field program • First introduction to the Project with Maps showing the flooded area • Introduction of Consultants to County officials • Testing the questionnaires and obtain 	March 2014	County Level	Kwale County Government-Executive Secretaries

comments from officers			
<ul style="list-style-type: none"> Introducing the project to government stakeholders and assess the adequate Institutional, regulatory and administrative framework for resettlement and local development planning Resettlement process confirmed Key issues to address identified Discussion on a monitoring and consultative scheme for the Project 	March 2014	National Level	MEWNR
<ul style="list-style-type: none"> Introducing the Field Program and Agree on Consultation Mechanism Presenting the field program and requirements (participation and authorizations) from government 	March 2014	County Level	PAPs; Local Administration
<ul style="list-style-type: none"> Community consultations in 746 potentially affected PAPs to inform about the Project, collect their views and present the upcoming Census process 	March-April 2014	County Level	PAPs; Local Administration
<ul style="list-style-type: none"> Consultation of 4,250 PAPs with participatory and individual questions at the end of each survey to know their views and expectations 	March-April 2014	County and Project Level	PAPs; Local Administration
<ul style="list-style-type: none"> Focus Group on Land Tenure, Vulnerable Groups 	March 2014	Project Level	PAPs; Local Administration
<ul style="list-style-type: none"> Include comments of all consultations to finally disclose the draft RAP through a formal consultation process 	July 2014	County Level	County Government, MEWNR,

9.3. CONSULTATIONS FOR PREPARATION OF THE RAP

Overview

The overall program for public consultation and participation is established in the PCDP for the Project (see below). During March and April 2014, consultations with affected communities in project area (including irrigation area) were performed.

Consultations were conducted after preparatory meetings with authorities of Kwale County and National Government (administration). Local administration authorities facilitated the performance of the field program.

Table 85. Consultations in Affected Communities

Date	Institution/Affected Party	Participants
April 7 th 2014	CDA Boardroom	<ol style="list-style-type: none"> Fauzia Mohammed William Fondo Charles Loktari Rose Tito Kodiaga (KWSCRIP) Consultants
April 7 th 2014	MOWASCO Office	<ol style="list-style-type: none"> Mr. Mwamburi (Head Sewerage Department) William Fondo

		<ol style="list-style-type: none"> 3. Charles Loktari 4. Rose 5. Tito Kodiaga (KWSCR) 6. Consultants
April 8 th 2014	Kwale County Government Office	<ol style="list-style-type: none"> 1. Patrick Mtsami-CEC Community Development, Youth, Women and Social Services 2. Hemed Mwabudzo-CEC Decentralized Governance 3. Sylvia Chidole-Chief Officer, Women, Youth and Sport 4. Nureni Mwadzaya-Chief Officer-Devolution 5. Mkalla Mwero-CDA 6. William Fondo 7. Charles Loktari 8. Rose 9. Tito Kodiaga (KWSCR) 10. Consultants
April 8 th 2014	District Officer Kasemeni Division	<ol style="list-style-type: none"> 1. Chief Benson Kalimbo Kokoi-Kasemeni Location 2. William Kamanza Nyumba-Assistant Chief Mazeras 3. Ngala Kitangila-Assistant Chief Mnyenzi 4. Msambala Mwabakari Mumba – Assistant Chief-Mwamdudu 5. Charles Mbuje – Assistant Chief Chigato 6. William Fondo 7. Mkalla Mwero 8. Fauziah Mohammed 9. Tito Kodiaga (KWSCR)
April 9 th 2014	Fulugani Primary School-Public Consultation Meeting with PAs	<ol style="list-style-type: none"> 1. Kaya Mtswakara Elders 2. Potential Project Affected Persons and Stakeholders 3. Mkalla Mwero 4. Fauziah Mohammed 5. William Fondo 6. Charles Loktari 7. Tito Kodiaga (KWSCR) 8. Consultants
April 9 th 2014	Mnyenzi Grounds –Public baraza meeting with PAs	<ol style="list-style-type: none"> 1. Chief Benson K. Kokoi – Chief Kasemeni Location 2. Potential Project Affected Persons and

		Stakeholders. 3. Mkalla Mwero 4. Fuaziah Mohammed 5. William Fondo 6. Charles Loktari 7. Tito Kodiaga (KWSCR) 8. Consultants.
April 10 TH 2014	Fulugani Primary School - Training of Enumeration Team	1. Identified Enumerators. 2. Consultants 3. Tito Kodiaga (KWSCR)
April 29 TH 2014	Pemba Dispensary -Meeting with Area Assistant Chief where proposed Demonstration Irrigation area is situated.	1. Nasib Chirima Mwingo, Assistant Chief Matumbi sub-location. 2. William Fondo 3. Consultants
May 1 ST 2014	Pemba Primary School – Public Baraza meeting with Irrigation area potential PAPs & Stakeholders	1. Assistant Chief Chirima 2. Potential PAPs & Stakeholders 3. Mkalla Mwero 4. William Fondo 5. Consultants
May 4 th 2014	Mwache Primary School -Meeting with Dam Committee Members & Assistant Chief to review exercise.	1. Assistant Chief Mbudzya – Chigato sub-location 2. Dam committee members. 3. Consultants.
May 21 st 2014	World Bank Kenya Office Presentation of Draft Findings	4. Simon Mwangi 5. Tito Kodiaga 6. Lazarus Kubasu 7. Helen Shariari 8. Gustavo Saltiel 9. Kwale County Government 10. CDA 11. KWSCR
May 4 th 2014	CDA Debrief Meeting on Completion of Field Work	1. Fauziah Mohammed 2. Charles Loktari 3. Hamisi Hassan 4. Consultants

Table 86. Consultation Objectives with PAPs

Consultation of villages in in the area up to 10 km upstream the Mwache River, including affected communities	
	18 villages along the Mwache river, upstream of the future dam site and including irrigation (pilot) area
Objectives	<ul style="list-style-type: none"> - provide updated information on the Project - conduct an asset inventory and validation of affected assets (land, residential structures, business structures) - communicate cut-off dates, obtain acknowledgement and signatures from affected people and from Dam resettlement committees - obtain information on preferences of PAP, affected by the loss of their residential assets, if they would prefer the participation in a resettlement program of the Project or rather opt for cash compensation and then conduct self-resettlement.

Consultations	<ul style="list-style-type: none"> - village leaders and resettlement committees - affected people - Ex- PAPs (people considered as affected by previous Project-Irrigation Site and not any more affected due to change of site)
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9.3.1 Consultation Activities

Inventory of Affected Assets

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

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

Village leaders also provided up to date demographic information on their villages (population figures).

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

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

Information on PAPs

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

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

Consultations on the RAP Compensation Approach

Simultaneously, local authorities (for the 18 villages) and local resettlement committees were consulted on the compensation approach in order to obtain their endorsement:

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

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

9.3.2 Key Informant Interviews

Structured interviews were conducted with the local resettlement committees to better understand issues of land use and to gain an understanding of what would be important to consider for livelihood restoration. The results of the interviews are compiled in Appendix 1. The respective information was integrated into the main RAP text, especially into the identification of livelihood restoration measures and into the baseline information about land use of affected communities.

Main issues addressed in the interviews were

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

Interviews on the Various Administrative Levels

Information gathering interviews were conducted on the County, Sub County, Location and sub location-levels.

Table 87. Interviews on the County and Sub County and Village-Level

Country/Sub County/Village Unit	Topics Addressed
Land Officer-Kinango	Information about land registration process Information about expropriation process and related valuation procedures

Management of Expectations of - and Consultations with EX-PAPs

Ex- Project Affected People (Ex-PAPs) are people, who were considered as affected by previous location/site of the proposed irrigation site, i.e., but who will not be affected any more with regard to the change to new site.

The consultation of Ex-PAPs is a very important part of the overall consultation plan of the Project in order to

- Provide up to date information on affected areas and the corresponding affected people under the new irrigation site

- Manage expectations of Ex-PAPs with regard to compensation (they will not be entitled any more to compensation)
- Avoid rumours and unrest amongst the population in the Project area (PAPs and Ex-PAPs) with regard to their status as PAP or ex-PAP respectively
- Provide a realistic reference base for individual short- and mid- term planning for households of PAP and ex-PAP (information that cut-off dates which were communicated in the context of previous design phases of the Project are no longer valid)
- Proactively reduce the number of grievances (resulting from insufficient information)

The local administrations of chiefs were informed about the changes in Project irrigation site, i.e. from original location to Pemba village. Corresponding information was provided to previously affected people (Ex-PAPs) in these areas.

A key point within the consultation program with ex-PAPs was to communicate information about measures under the *Sustainable Livelihoods Programme* implemented under the overall *Kwale County Development Programme*. The *Kwale County Development Programme* will target communities in the entire project area, with a focus on ex-PAPs in order to enhance sustainable development and overall improvement of living conditions in the respective communities.

The table below provides an overview on consultations conducted with Ex-PAPs.

Table 88. Consultations with Ex-PAPs: Village Meetings

Key Aspects of Consultations with ex-PAPs	
<ul style="list-style-type: none"> • Information on change of Project site-Irrigation • Information on the resulting change of status from PAP to ex-PAP • Manage expectations • Information on project benefits with a focus on measures under the Local Area Development Plan • Provide communication materials with comprehensive Project information • Enhance supportive attitude to the Project from local communities 	
Audience Consulted	Key issues noted as feedback
Ex-PAPs Local Communities 18 April 2014	<ul style="list-style-type: none"> • Extremely happy that the project will not affect them • Enquired if they will get other benefits like water from the dam for domestic use and agriculture even though they are not affected • Enquired if they will get jobs during construction phase

9.4. CONSULTATIONS IN THE CONTEXT OF RAP DISCLOSURE

The executive summary of the RAP will be disclosed in the website of the Kwale County Government, World Bank and MEWNR to allow the public and stakeholders to consult the documents for final feedback. Publications will be in English.

Hard copies of the RAP will be placed in public areas (Kwale County headquarters, MEWNR-Maji House, CDA office) to allow for public consultation.

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

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

9.5. CONSULTATIONS IN THE CONTEXT OF COMPENSATION AGREEMENTS

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

CONSULTATION DURING RAP IMPLEMENTATION

During RAP implementation, the Project Implementation Unit will be responsible for the planning and performance of regular consultation with affected communities, covering the different groups of PAP, including vulnerable people. Community Liaison Officers (to be assigned immediately by the start of RAP implementation, at the start of year 0) will be the staff who will operate the consultation program for the project affected communities during the implementation phase. Key elements of consultation during RAP implementation are:

- Routine consultation of local resettlement committees in the context of the RAP monitoring program;
- Public consultation events in the context of the RAP monitoring program;
- Special consideration of vulnerable people, organize the identification of and the individual participatory needs assessment with vulnerable persons (see chapter above);
- Continuous information of the affected population and other project stakeholders about Project progress and upcoming relevant activities;
- Continuous update of stakeholder list of the RAP;

- Provide accessibility for affected people; establish capacity/availability for quick response to consultation needs expressed by PAP (i.e. constructions related concerns).

From the start of RAP implementation, PIU will operate a field office at the project site. The operation of the project office will be communicated broadly to affected people, including office hours of key staff. The location of the office will be signposted. The field office will be established at a site, which will be accessible without any disturbance from construction activities, access will not be severed by construction activities at any time.

CHAPTER 10. IMPLEMENTATION ARRANGEMENTS

A complex Project such as the Mwache Multipurpose Dam Project with the requirements of the RAP requires an adequate implementation set up, with agreed roles and responsibilities.

The RAP will be implemented within one overall organizational set up, by multi-disciplinary teams (see below) on different levels. The relevant Kwale County Government will act as advisory bodies and partners for implementation.

The intended implementation arrangements with a range of key actors on different levels, representing different entities, require the development of an overall communication plan for Project implementation (see below), in order to facilitate efficient performance.

The sections below present the implementation arrangements with a focus on the RAP.

10.1. ROLES AND RESPONSIBILITIES

The implementation of the Project will require the participation of several key players, including, but not limited to,

- the Project Implementing Unit
- the relevant local and county authorities

Ministry of Environment, Water and Natural Resources

The Mwache Dam Project is owned by the Government of Kenya through the Ministry of Environment, Water and Natural Resources and shall be responsible for mobilization of financing from The National Treasury (NT) for this RAP. MEWNR 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 –Coast Development Authority

CDA 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.

The PIU will operate on site, in interaction with the project affected people and direct cooperation with the County Government of Kwale. PIU will report to the CDA Management.

The PIU will operate from Mombasa County (CDA headquarters) as well as directly at the Project site, with a local Project office.

The key implementation processes of the RAP require continuous presence in the project area and continuous communication with Kwale County Government, resettlement committees and affected people. A project office at the Project site (location yet to be determined,) will maximize efficiency and accessibility of the PIU staff.

To properly deliver its mandate, the PIU must be fully established and operational as soon as the decision to go ahead with the project has been made. This is in order to timely initiate and manage those key RAP implementation activities, which will have to be performed prior to the start of construction (i.e. the compensation process for people affected by construction).

With regard to the implementation of the RAP and the PCDP, the PIU has the following responsibilities

Communication and Coordination

- Overall coordination with national and county government and with local authorities and funding agency with regard to the Project's social and environmental issues
- Implementation of the PCDP and establishment of good and operational relations to affected communities
- 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:

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
- Manage staff recruitment processes and contracting processes of external service providers
- Design of overall training plan for RAP implementation staff, oversee and coordinate implementation of plan

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 CDA and PMU (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

Existing PIU Staff Positions and Additional Staff Requirements

The table below presents a summary of staff positions and corresponding tasks for the PIU with regard to RAP implementation. PIU will also manage ESMP - implementation.

At the end of the construction phase, the PIU team will be gradually reduced as the need for intervention decreases and works will have been completed by its staff.

However, some key processes of RAP implementation will extend into the operation phase (i.e. monitoring), hence respective staff will perform until the completion of the RAP (after the compliance – and completion audit (external) and the acceptance of the RAP completion report (containing the independent outcome evaluation) by governments and lenders.

In the long run, two community liaison officers and one monitoring expert for long term livelihood tracking will be in charge on a permanent base for project operation.

Table 89. PIU Set-Up and Tasks for RAP Implementation

Social Development and Resettlement Officer (1)

TASKS*

- Ensure that RAP implementation proceeds in line with social safeguards requirements of lenders and government
- Oversee social issues in ESMP implementation (details see ESMP)
- Supervise Sustainable Livelihood implementation
- Meet regularly with County and Resettlement Committees
- Initiate and supervise final design process for livelihood restoration measures
- Supervise implementation of livelihood restoration measures
- Coordinate exit survey prior to compensation disbursement with final technical valuation of losses
- Provide guidance for social monitoring staff, follow up of monitoring activities
- Coordinate community liaison officers, direct tasks and receive reports, liaise and cooperate with PCDP coordinator

SKILLS*

- Senior social and/or development specialist with experience in resettlement and land acquisition issues, preferably in of the Coastal region.
- Relevant education record
- Senior specialist with experience in resettlement and land acquisition issues
- Advanced communication- and coordination skills
- Expertise in social safeguards, familiarity with application of relevant guidelines

- Experienced in social field work, methodology and design
- Familiarity with the project region and with the respective socio-cultural specifics, especially related to poverty issues, to gender issues and to vulnerable groups
- Expertise in social monitoring
- Familiarity with the Project and with all social and environmental plans related to the Project advanced reporting skills

Livelihood Restoration and Community Liaison Officers (4)

TASKS*

- Operate under direct guidance of social safeguards expert and of PCDP coordinator
- Maintain contact to and cooperation with affected communities
- Technical management of livelihood restoration programs, in cooperation with the district authorities
- Be accessible to liaise with affected population per request, especially for vulnerable groups.
- Assist affected people in issues related to the Project (answer questions about the process, delivery of grievances, information about consultation activities etc.)
- Participate as observer on a case by case base in the exit surveys with final technical valuation of losses (under guidance of social safeguards expert)
- Operation of consultation process with affected people (PCDP implementation), guided by PCDP coordinator
- Identification of vulnerable people in cooperation with resettlement committees
- On the spot and ad-hoc consultation and information of affected people
- Liaise with monitoring staff, involvement in monitoring process
- Liaise with grievance management staff

SKILLS*

- Technical skills required for the final design and implementation coordination of livelihood restoration programs: at least 1 agriculturalist, at least one expert for small – and micro businesses, at least one expert for agri-business;
- Familiarity with government programs which would serve as conceptual frameworks for the RAP livelihood restoration measures
- Very good communication skills and cultural sensitivity
- Experience in livelihood restoration programs and in field work on the grass root level with rural population
- Ability to work in a team and in an interdisciplinary manner
- Ability to work proactively
- Familiarity with the project area and with the respective socio-cultural specifics
- Knowledge of local languages (depending on the area of operation)

Note

At least 50% of livelihood restoration and community liaison team should be female

Livelihood restoration and community liaison officers are permanently operating from Project office on site

Grievance Management Officer (1)**TASKS***

- Supervise operation of grievance mechanism and regional coordination
- Guide grievance management officers and establish detailed design of documents and procedures, in cooperation with social safeguards specialist
- Train resettlement committees on their tasks within local grievance management
- Maintain relations to resettlement committees and organize regular visits and consultation meetings in affected communities
- Take over complex and disputed cases of grievances in order to avoid forwarding to mediation committee
- Train grievance management officers and introduce them into their tasks
- Report to social safeguards specialist and to PIU manager
- Liaise with monitoring coordinator, contribute to monitoring
- Follow up the registration of grievances and filing of grievances into the database

SKILLS*

- Experienced project manager with strong organizational, analytical - and communication skills.
- Familiarity with the Project and with social/environmental plans related to the Project, familiarity with the Project's grievance mechanism
- Experience with similar tasks in similar settings
- Familiarity with the legal aspects of the grievance process and familiarity with related administrative processes (i.e. processes related to expropriation)
- Ability to work in a demanding set up, mediation skills, sensitivity towards socio-cultural specifics of the Project area
- Ability to organize a complex mechanism

Project Database Manager (1)**TASKS***

- Develop Project database, provide advise with respective professional software
- Get familiar with RAP processes and other relevant processes, consider processed in data base design
- Cooperate with PIU staff in order to appropriately design the database
- Design processes in order to file data from PIU staff into the data base
- Report to PIU senior management
- Provide data as required from PIU team

Database will at least contain

- Socio-economic baseline data
- Grievance database
- Monitoring database
- Compensation database
- Environmental data
- Project report – and documentation database

SKILLS*

- Senior IT expert with advanced skills in database management
- In depth familiarity with relevant software and technical settings
- Experience with the design and management of complex database systems
- Team working skills

Monitoring Officer (1)

TASKS*

- Coordination of monitoring
- Implementation of internal monitoring programme of the RAP according to the provisions in section 11.4
- Detailed design of procedures and monitoring forms under supervision of social safeguards specialist
- Documentation of monitoring results and alert on any required corrective action as outcome of monitoring
- Guide monitoring assistants and community liaison officers for monitoring procedures
- Cooperate with local resettlement committees and district task forces
- Forward results to database management
- Deliver monitoring reports according to schedule

SKILLS*

- Senior expert in social monitoring, desirably in similar projects
- Advanced expertise in designing and performing monitoring procedures, analyzing results
- Familiarity with relevant social safeguard policies and their application
- Familiarity with social field work in rural environments
- Good reporting skills

*Tasks and skills are presented as tentative lists, final description to be determined by the start of implementation phase

OTHER PARTIES INVOLVED IN RAP IMPLEMENTATION**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:

- 1) *Provide approval to request made by MEWNR to acquire land for Mwache Dam Project;*
- 2) *Notify landholders in writing of the intention to acquire land;*
- 3) *Assist in resolving disputes related to compensation;*
- 4) *Acquire land on behalf of MEWNR;*
- 5) *Undertake public consultation on intended acquisition;*
- 6) *Undertake actual payment of entitlement awards to PAPs*

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

PIU field 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-Male
- 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
- PIU

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:

- Conducting extensive public awareness and consultations with the affected people.
- Help ensure that local concerns raised by PAPs as regards resettlement and compensation are promptly addressed.
- 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 next level as described in the grievance redress mechanism.
- 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.

10.2. IMPLEMENTATION SCHEDULE

The project is divided into three phases.

- **Phase 1**-Preconstruction period (Y0): establishment of PIU and 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- Y4): 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 (Y5): continuation of RAP implementation;
- **After Phase 3** - Y5-Y8 : completion of RAP implementation.

Table 90. Implementation Schedule for Year 0

Activity	1	2	3	4	5	6	7	8	9	10	11	12
	Q ₁			Q ₂			Q ₃			Q ₄		
Set-Up of PIU: tender, contract staff as per section 10 of RAP												
Final design of civil works												
Compensation Process												
Exit surveys/compensation agreement for HH affected by construction, extension of survey period corresponding to availability of final construction area pattern												
Disbursement of compensation												
Monitoring												
Baseline survey (20%PAP stratified sample) as reference base for outcome evaluation, determination of outcome indicators for												
Tender/contract for outcome evaluation												
Tender/contract for monitoring of compensation disbursement												
Internal monitoring as per section 11												
Outcome monitoring as per section 11												
Monitoring compensation disbursement												

Tracking of PAP who lose their residence for establishment of new residence before they have to leave their affected residence																		
Livelihood Restoration																		
<i>Final arrangements for livelihood restoration measures: small business management, small business support; PIU livelihood restoration officer (business expert), district officers; consultation of affected businesses</i>																		
<i>Training of Trainers for Money Management Training:</i>																		
<i>Final arrangements for livelihood restoration measures/ agricultural enhancement measures/livestock enhancement: PIU livelihood restoration officer; agronomists of districts; other district officers (social, community development), consultation of affected people (PAP losing agricultural land due to construction)</i>																		
<i>Advisory service to affected people for enrollment in livelihood restoration</i>																		
<i>Enrollment HH affected by construction in livelihood restoration: small business and agricultural enhancement</i>																		
<i>Start of Livelihood Restoration: Small business support/small business development</i>																		
<i>Start of Livelihood Restoration: agricultural enhancement and livestock</i>																		
<i>Implementation of Money Management Training for affected people: district officers</i>																		
<i>Preparation Process for LADP measures (priority on affected communities and ex-PAPs): PIU and district</i>																		
Consultation																		
<i>Consultation of Vulnerable People on household level on support needed; implementation of support measures as per consultation results; consultation of PAP as per RAP and PCDP</i>																		
<i>Grievance Process</i>																		
<i>Training of Resettlement Committees for the management of grievances on local level</i>																		
<i>Maintenance of Grievance Management Process as per section 7</i>																		

Table 91. Implementation Schedule – Construction Period

Activity	Year 1				Year 2				Year 3				Year 4			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
PIU operation as per RAP																
Civil contractor mobilization																
Start of Civil Works, construction, Project commissioning at end of year																
Compensation Process																

Survey of PAP who were absent during village self-validation (PAP affected by operation)																		
Exit surveys/compensation agreement for HH affected by operation, integrating PAP who were absent during village self-validation																		
Disbursement of compensation																		
Monitoring																		
Internal monitoring as per section 11																		
Outcome monitoring/evaluation as per section 11		◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆
Monitoring compensation disbursement																		
Livelihood Restoration																		
Advisory service to affected people for enrollment in livelihood restoration																		
Enrollment HH affected by operation for livelihood restoration measures																		
Start and Operation of Livelihood Restoration Programs																		
Money Management Training for affected people: district officers																		
Implementation of sustainable development programme																		
Consultation																		
Consultation of Vulnerable People on support needed; implementation of support measures as per consultation results																		
Consultation of PAP as per RAP and PCDP																		
Grievance Process																		
Maintenance of Grievance Management Process as per section 7																		

Table 92. Implementation Schedule - Operation

Activity	Year 5				Year 6				Year 7				Year 8					
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4		
PIU operation as per RAP																		
Project commissioning, operation																		
Monitoring																		
Internal monitoring as per section 11																		

Outcome monitoring/evaluation as per section 11	◆	◆	◆	◆	◆	◆													
Compliance/completion audit																			◆
Livelihood Restoration																			
Livelihood Restoration Programs																			
Money Management Training for affected people: district officers																			
Implementation of sustainable development programme																			
Consultation																			
Consultation of PAP as per RAP and PCDP																			
Vulnerable people-implementation of support measures as per consultation results																			
Grievance Process																			
Maintenance of Grievance Management Process as per section 7, available for target population																			

CHAPTER 11. MONITORING AND EVALUATION

11.1. OVERVIEW

The monitoring is to assess the overall success of the RAP and the effectiveness of the various processes and measures. Monitoring activities will comprise three main components:

- Internal monitoring
- External monitoring (by external experts);
- RAP completion audit (by one or more international experts)

The internal monitoring process will run as part of day to day PIU activities by the PIU teams.

External monitoring is intended to provide an independent, third party, objective assessment of the on-going RAP implementation to ensure that the Project is meeting international standards for compensation and resettlement.

The monitoring & evaluation team in collaboration with representatives of affected people will select final outcome indicators by the start of Year 0. A stratified sample of about 20% of affected people will be used consistently for outcome measurement. The stratification process will ensure that all sub-groups are adequately represented in the sample. The team will finalize the baseline against which indicators will be measured for the sample households prior to affected households' loss of assets (by month 6 of Year 0). Indicators will include both quantitative (such as income for livelihood restoration, size and quality for standard of living), as well as proxy indicators for livelihood restoration.

The completion audit will verify full, comprehensive and transparent implementation of the RAP according to international policies. Each of the key aspects of the M&E Mechanism is described below.

11.2. OBJECTIVES OF MONITORING

The overall objectives of monitoring in the RAP context are to verify the following points:

- Actions and commitments described in the RAP are implemented fully and on time;
- Project affected persons understand their rights;
- Eligible project affected persons (PAPs) receive their full compensation entitlements and livelihood restoration measures within the agreed time;
- Physically displaced HH restore and improve living standards to at least previous levels

- RAP compensation and livelihood restoration measures are effective with regard to the enhancement or at least the restoration of livelihoods of PAPs;
- Complaints and grievances expressed/submitted by PAPs are followed up and resolved and that, where necessary, corrective actions are implemented;
- If necessary, changes in RAP procedures are made to improve delivery of compensation/assistance to PAPs; needs for changes would be noted largely by the monitoring and evaluation results and through consultation of PAP

The overall responsibility of monitoring is with CDA. The monitoring will be performed by internal (PIU) staff that will receive training with regard to monitoring techniques and recording of monitoring results.

External experts will be hired for external monitoring (evaluation) where applicable.

11.3. M&E APPROACH

The following monitoring and evaluation approach will be used, whereby different levels of monitoring and evaluation are used

- Internal progress (Input/output) monitoring: measures whether inputs are delivered on schedule and as defined in the RAP, and their direct measurable results, for instance
- Amounts of compensation paid in a given month (see below)
- People completing livelihood restoration training courses
- Lost places of residence re-established
- Businesses re-established

Monitoring will also seek to document and investigate specific conflict or hardship situations arising from the implementation of the RAP. Monitoring keeps track of RAP implementation efficiency and indicates whether changes have to be made to make the program work more efficiently. Progress monitoring is done internally by the Project at a frequency determined by the RAP for every indicator. For this RAP, participatory elements are integrated in the monitoring process, e.g. interviews and focus group discussions.

Note: Monitoring of compensation disbursement will be outsourced to an external independent entity.

- Outcome evaluation:
 - Outcome evaluation assesses whether standard of living and livelihood restoration measures are achieving the goals of restoring/improving standard of living of physically displaced households and/or restoring/improving livelihood conditions of economically displaced households.
 - Outcome evaluation defines the extent to which the project is achieving or likely to achieve the objectives of the RAP. Re-establishment of businesses and earning acceptable returns over a reasonable period is an example of

outcome. Outcome evaluation, combined with output monitoring results, will indicate whether the program is genuinely working and should continue to be implemented as planned, or whether some fundamental changes need to be made. Outcome evaluation looks beyond numerical compliance to the longer-term impacts of program inputs and outputs, do determine what works and what does not work, and what needs to be changed. Outcome evaluation will be done by an independent entity during RAP implementation.

- Outcome evaluation often uses proxy indicators (indirect indicators): for example, many people are reluctant to talk about their actual income. Proxy indicators can be used to help determine whether affected people are re-establishing or improving their livelihoods and standard of living. Indirect indicators may include school attendance, or the purchase of “luxury” items such as motorbikes, sat TVs.

Outcome evaluation reports will be publicly disclosed.

Audit of compliance and completion: Defines whether the RAP and applicable requirements have been complied with, and if the implementation can be deemed complete.

11.3.1 Internal Monitoring

Internal monitoring will verify progress and analyse relevant issues at regular intervals (e.g. quarterly) in order to provide information for necessary updates of the RAP process.

Table 93. Selection of Indicators for Internal Monitoring

Monitoring Aspect	Activity and specific monitoring parameters*	Monitoring Frequency
Performance against schedule	Progress in technical validation of affected land and assets and signature of compensation agreements: % complete	Monthly
	Payment of compensation and delivery of livelihood restoration measures % complete	
	Land plots used temporarily during construction, number: - % of total land used for construction	
	Plots used during construction: % re-instated and handed back to owners	
	Grievance process: no. of grievances received/responded/resolved	
	Consultation activities: records of meetings, discussions, interviews, etc.	
Overall restoration of livelihoods and income	Summary of monitoring activities, to be integrated into the RAP Implementation Status Reports	Monthly
	Was compensation paid to land owners and land users? % of total payments/livelihood measures completed, in progress, not started, in appeal.	
	Was compensation in general in line with agreed rates and in – time? % of total payments made at agreed rates % within agreed time frame.	
	How is the response of affected people to the livelihood programs? % enrolment of affected households	

	Where livelihood restoration measures delivered for all groups of affected people? % of total livelihood restoration measures in progress not started.	
	Was financial training delivered to all groups of affected people? % of affected households in financial training completed, in progress, not started, appeal	
	Did affected businesses receive entitlements? % of total completed, in progress, not started, in appeal.	

Monitoring Aspect	Activity and specific monitoring parameters*	Monitoring Frequency
	Did affected workers/employees receive entitlements? % of total completed, in progress, not started.	
	Have vulnerable people been identified on the household level? % of household situations reviewed	
	Have special needs of vulnerable groups been identified and addressed? % of vulnerable people addressed with targeted measures	
	Have physically displaced people managed to re-establish a new place of residence? % of displaced people established new place of residence	3 monthly
	Have affected businesses been restored? % of restored businesses	6 monthly
	What changes have occurred in the costs for living/expenditures of PAPs? Factual description	Once a year
	How have changes of income changed overall household economy of PAPs? Factual description	
	Number of skilled and non- skilled PAPs engaged in construction workforce (or otherwise employed as part of Project)? Total no. of PAPs who applied for jobs, % employed part-time/full-time, % undergoing job training	
	Are livelihood restoration measures proving effective? Summary professional opinion	
	Are any additional support measures required? Professional opinion based on all results to date	
Level of PAP satisfaction	How do PAPs perceive the extent to which their overall livelihood has been restored? Results of routine interviews with PAPs	Continuously
	Have PAPs experienced any hardship as result of the Project? Results of routine interviews with PAPs	
Consultation and Grievances	Do PAPs understand the process of land acquisition/ compensation/ livelihood restoration measures? Results of routine interviews with PAPs	
	Do PAPS understand avenues for expressing grievances? Results of routine interviews with PAPs	
	What types of grievances have been issued and how have these been resolved? Summary of input from Grievance Procedure and routine interviews with PAPs: factual information.	

11.3.2 Outcome Evaluation

Outcome evaluation will be done during RAP implementation by a qualified and experience external evaluator. Outcome evaluation (with data collection and analysis) will be done with 6-month intervals from the beginning of RAP implementation onwards. One of the key purposes of outcome evaluation is the identification of need for changes (e.g. for the implementation mechanisms) or additional actions within livelihood restoration.

With 6-month intervals, need for changes can be identified timely and changes can be implemented as quickly as possible.

Simple-socio-economic parameters will be established and monitored Compliance and Completion Audit

The purpose of the compliance/completion audit is to determine whether the Project has met its commitments and can be released from further responsibility. Hence, the independent compliance and completion audit will focus on the assessment of compliance with the commitments of this RAP, the relevant Kenyan legislation and the WB Policies. The audit will be performed by an independent entity (to be determined). Evaluation reports will be made public.

11.3.3 Compliance And Completion Audit

The compliance and completion audit will be performed about one year after completion of RAP implementation, including the completion of the livelihood restoration programs.

- The compliance reviews will concentrate on
- Overall compliance with applicable legislation, international requirements and commitments of this RAP
- Compliance with the eligibility criteria described in this RAP
- Actual delivery of entitlements as described in this RAP
- Compliance with implementation mechanisms described in this RAP
- The completion audit will assess all activities needed to achieve compliance were implemented and whether compensation (and resettlement) can be deemed complete.

A key objective of this RAP is that compensation and livelihood restoration measures should lead to sustainable restoration or enhancement of affected people's quality of life and income levels. At the time when affected people's quality of life and livelihoods can be demonstrated to have been restored, the RAP process can be deemed as completed.

11.3.4 Responsibilities

- Internal monitoring will be a responsibility of the PIU team. In cooperation with the monitoring officers, the community liaison- with the grievance management officers will be in charge of gathering and processing relevant data. Interim monthly reports will be established according to monitoring activities.
- Monitoring results will be entered into a digital database by PIU database management experts.
- PIU officers will also prepare the annual monitoring report to be delivered to KWSCR/PMU and CDA

- Monitoring of the compensation disbursement process will be outsourced to an independent external entity. During the disbursement periods, PIU will receive weekly monitoring reports. Monitoring will include the individual tracking of people affected by loss of residence. They will be tracked in order to follow up the process of establishment of a new residency before the affected building has to be left.
- For outcome monitoring and evaluation external consultants will be hired who will conduct six-monthly monitoring missions during RAP implementation. The scope of work of this consultant will include the two countries to address transnational consistency issues and to allow for comparisons.
- The compliance/completion audit will be contracted to a qualified an experienced consultant.

CHAPTER 12. BUDGET

Based on the Land Act and OP.4.12, the RAP consulting team came up with cost estimates for the RAP. As mentioned earlier, it is important to note that the Land Act does not expressly include costs related to relocation. However, for this RAP, a 15% disturbance and relocation assistance was included to the budget. The relocation assistance will cater for economic, social and physical disturbance caused to a PAP. The costs add up to Kenya Shillings 679,066,933.75 equivalent to USD 7,989,022.75. While the project will pay for supporting infrastructure related to resettlement, such as the construction of houses and non-residential structures, roads, water supply, electricity, and livelihood training, etc., the Government of Kenya will pay for cash to purchase land and any cash compensation paid to the PAPs.

Table 94. Total Permanent Crop Compensation Cost

Total Number of Crops	43,411
Total Cost Compensation	Ksh. 16, 033,872
Total Compensation in USD	USD 188,634

Table 95. Compensation Rates for Residential and Commercial Land in Project Area

Land Size	Price Per Ha (USD)	Total Cost (Ksh)	Total Cost (USD)
855.31	3,500	254,454,725	2,993,585
Include 15% disturbance allowance=(449,037.75)		38,168,208.75	449,037.75
Grand Total		292,622,933.75	3,442,625.53

Table 96. Compensation Rates for Structures/Residential Houses

Type of house	Replacement Value (Kshs)	Replacement Value (USD)
2-3 room house, 70m ² in surface, and cement bricks with cement finish, concrete pillars, and corrugated iron roof.	29,070,000	342,000
171 # of Structures @ 2,000 USD per structure		
Grand Total	29,070,000	342,000

Table 97. Other Compensation Aspects

Type of structure	Value (Ksh)	Value (USD)
Latrines: Each of the 171HH will be compensated with a latrine @ 200 USD per structure	2,907,000	34,200
Compensation for Graves # 105 of graves at 200 USD per grave	1,785,000	21,000
Compensation for Kaya #2 Kaya in project site: Cleansing of each site and relocation estimated at 10,000 USD	1,700,000	20,000

Livelihood Restoration=1,000 USD per HH for 746 # of HH	63,410,000	746,000
Micro Credit Grant Support		
Transitional Allowance for 746 HH @ 2,000 per HH For 2 years	253,640,000	2,948,000
Grand Total	323,442,000	3,805,200

Table 98. RAP Implementation Costs

Aspect	Value (Ksh)	Value (USD)
Financial/Money Management Training	12,682,000	149,200
External Monitoring and External Coordination for RAP Implementation y0 and y1-y4	21,250,000	250,000
Grand Total	33,932,000	399,200

Table 99. Overview on Budget for RAP Implementation

Total RAP Cost	Ksh	USD
	670,066,933.75	7,989,022.75

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

APPENDIX

APPENDIX I - CONSULTATION ON RESETTLEMENT WITH AFFECTED COMMUNITIES-PAPs

Public Consultation Meeting at Fulugani on 9th April 2014/Minutes of the public baraza held at Fulugani Primary school

Present:

- Mark Owuondo Consultant (RAP Team Leader)
- Liya Mango Consultant (GIS Specialist)
- Lydia Olambo Consultant (Gender Specialist)
- Pauline Makhoha Consultant (Gender Specialist)
- Tito Kodiaga Consultant (World Bank)
- Fauziah Mohammed CDA
- Mkalla Mwero CDA
- William Fonda CDA
- Charles Loktari CDA
- Stakeholders as per attached attendance list.

1. Introduction

This public baraza took place at Fulugani primary school grounds. It was attended by diverse project stakeholders that included women and the youth as well members of the duruma council of elders, potential project affected persons and the local administration officials. The meeting was preceded by prayers led by Stephen Mwachiti chairman of the ad hoc dam committee.

The consultants and CDA officials then introduced themselves to the assembled stakeholders. They then went on to explain their presence at the locality. The public was made aware that the consultants were there to undertake an inventory of assets belonging to the community.

Mr. Mkalla Mwero and Fauzia Mohammed made the presentation in that regard, informing the residents about the intended benefits of the proposed project. The consultants then informed the baraza on the processes they would follow while conducting the RAP and ESIA exercise.

Discussions

The community members present were urged to give their views on the project, which they did, a summary of the consultative exercise is tabled below;

Comments and Issues	Response
<ul style="list-style-type: none"> ▪ We use our land for farming and pasture for our animals. If our land is acquired what will we leave on? 	The owner of land that is acquired will be fully compensated for it to enable them get a similar property elsewhere.
<ul style="list-style-type: none"> ▪ There are family graves in our land; won't this proposed project affect them? 	It was acknowledged that indeed some graves would be affected. Elders and Kaya members offered the solution that the graves would be re-buried at another location after a cleansing ceremony was done. They

	would ensure that these affected graves got a dignified re-burial with the proponent absorbing the costs.
<ul style="list-style-type: none"> ▪ By acquiring land here for the project, family and social linkages may be interfered with? How can this be avoided? 	The project proponent is aware of the close ties families have. It does not expect to relocate affected persons too far from their kin, it hopes the PAPs will be accommodated within their kin hence no social destabilization in a big scale is expected.
<ul style="list-style-type: none"> ▪ There are concerns that the dam may result in deterioration of public health. Water borne diseases may increase together with malaria. 	The project proponent has foreseen that and put mitigating mechanisms in place to curb any potential upsurge of disease. The implementer will also sensitize the public on the benefits of proper sanitation.
<ul style="list-style-type: none"> ▪ Workers from outside the community engaged in construction may bring with them alien cultures which may corrupt our youth. 	All in-migration workers will be furnished with an ethics code on how to interact with the locals in a respectable manner...
<ul style="list-style-type: none"> ▪ Aside from compensating us for involuntary displacement, is there any other way the project will benefit us? 	The project will provide access to quality water regularly. The proponent will also come up with measures to restore livelihoods.
<ul style="list-style-type: none"> ▪ Is there a grievance redress mechanism system in place and will it be effective? 	There is a grievance redress mechanism in place which with corporation from the PAPs is expected to handle any issues fairly.
<ul style="list-style-type: none"> ▪ Why is the irrigation command area only 100ha? This is too small an area. 	The area is put at 100ha as it is going to be for learning purposes. Once it is confirmed as a viable investment, 2500ha will be put under full irrigation.
<ul style="list-style-type: none"> ▪ Will my whole land be affected? 	Only the area that is below the 100m contour mark will be affect, those with properties higher than the watermark will not be affected.
<ul style="list-style-type: none"> ▪ Will the dam project provide jobs for our youth? 	The project will aspire to create jobs for the youth and women during construction.
<ul style="list-style-type: none"> ▪ There are some who depend on the river for livelihood e.g. stone quarrying and sand harvesting, will they be compensated for loss of livelihood. 	During the R A P exercise all affected persons will be enumerated. Those whose livelihoods are affected will be compensated for loss of livelihoods and a livelihoods restoration mechanism will be constituted.
<ul style="list-style-type: none"> ▪ Will the project come with electricity supply component? The locality lacks power. 	Mwache Dam project will not be used to generate electricity, the request is however noted and the implementers will liaise with

	relevant governmental agencies to request them to assist.
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Conclusion

The meeting ended at 1:30 pm with a word of prayer from an elder. The community resolved to support the project to its conclusion and stressed the need for them to be involved in all aspects of the project.

Recorded by – Beatrice Githinji

Approved by – Mark Owuondo

Minutes of meeting with Administration Chiefs at the District Officer’s office on 8th May 2014

Present

- Chief Benson Kalimbo Kokoi – Chief Kasemeni Location
- William Kamana Nyumba – Asst. Chief - Mazeras
- Ngala M Kitangalia - Asst. Chief – Mnyenzi
- Msambala Mwabakari Mumba – Asst. Chief – Mwamdudu
- Charles Mbuje – Asst Chief – Chigato
- Mark Owuondo – TTR
- Liya Mango – TTR
- Lydia Olambo – TTR
- Pauline Makhoha – TTR
- Tito Kodiaga – World Bank
- Fauziah Mohammed – CDA
- Mkalla Mwero – CDA
- William Fondo – CDA

Purpose of meeting

The meeting was convened to inform the area local administration of the intended project and have their views as to the same. The chiefs were also requested to inform the area residents of the project and to mobilize them as well to attend a public stakeholder meeting as would be scheduled.

Proceedings

The meeting commenced at 3:00 pm by a prayer from Asst. Chief Ngala Kitangalia. Those in attendance then had an opportunity for self-introduction after which the CDA officials were requested to inform the administrators as to the reason for the meeting.

The Chiefs and their assistants were comprehensively informed of the need for the project, and were reminded that as stakeholders in the community their views would go a long way in giving the project big support or make it difficult for the project to achieve intended goals.

Discussions

The discussions were consultative in nature and raised the issues tabled below that the project proponents and consultants responded to:

<u>Comments/Queries</u>	<u>Response</u>
When is the project meant to commence?	As soon as all relevant mechanisms are in place including resettlement of displaced persons.

Title deeds have been given to some land owners but give acreage that is perceived as erroneous, how do we verify?	The Chiefs should advise the landowners to get surveyors and have proper survey done in their presence. They should also lodge any queries with the lands office.
Will the PAPs who are displaced be accepted by potential host communities?	Yes, the community is made up of kinsmen so they will accept them.
There is the potential of disrupting social networks with displacement.	Those who will be involuntarily displaced are expected to be resettled within the county and in the location hence minimal disruption is expected.
What mode will compensation take?	Compensation will be as per the choice of the individual PAP. It may be in money form or as an asset equivalent.
How will the young or the very old or sickly be compensated?	Child-headed households and those headed by the very old fall under the vulnerable and marginalized groups. As such there is separate plan especially for them to ensure they benefit from the project.
Will the local populace be considered for jobs?	Youth and women as well as all able-bodied persons will get an opportunity to work on the project. The implementing agency will work closely with the local demography at all times.
What will determine compensation rates?	Compensation will be determined at the rates prevailing in the area at that moment.
How will the area to be submerged be determined?	Technical details have put the high water mark at 100m contour. Beacons have also been erected to mark that area.
Who will monitor the progress of the project to ensure it is positive?	The implementer has an in-built monitoring & evaluation section that will be activated when the project is commencing i.e. from Inventory of loss of assets to project de-commissioning.

Conclusion

The meeting ended at 5:30 pm with a closing prayer and the Chiefs promising to mobilize the community for the public baraza.

Recorded by – Beatrice Githinji

Approved by – Mark Owuondo

Minutes of Meeting with Kwale County Executives at County headquarters on 8th April 2014

Present:

- ❖ Mkalla Mwero – County coordinator and representative of CDA in Kwale County.
- ❖ Fauziah Mohammed – CDA
- ❖ Lydia Olambo – TTR
- ❖ Liya Mango – TTR
- ❖ Mark Owuondo – TTR
- ❖ Tito Kodiaga – World Bank
- ❖ Pauline Makhoha - TTR
- ❖ Patrick Msami – CEC – Community development, Youth, Women and Social Services.
- ❖ Hemed Mwabudzo – CEC – Decentralized Governance

Introduction

The meeting opened with a word of prayer by Mkalla Mwero and commenced at 9:00 am at the office of CEC Patrick Mtsami.

Proceedings

A short period of self – introduction ensued to allow those present an opportunity to familiarize themselves.

Purpose of meeting

Mwache Multipurpose dam is a project with diverse stakeholders. The county government is a major stakeholder in the project thus without involving Kwale County Government in consultations would have led to difficulties in conducting the consultations in their jurisdiction. As a matter of protocol, activities cannot be conducted in any County in Kenya without the knowledge of the County Governments and even the National Government.

Issues and concerns that arose from the discussion are tabled below;

Comments/Queries

Responses

Resource i.e. the River Mwache is in Kwale County yet its neighbouring Mombasa county that will benefit. Where is equitable distribution of resources?	The fear is valid. There is a component in the project that will address this issue Kwale Water and sanitation project as well as the irrigation component.
Project fatigue: There is a feeling of fatigue. The project has taken long to start and there is doubts as to if it will do take off.	The project is on course and in the near future will be implemented.
The officials asked why the irrigation command area was just 100 ha. They felt this was too small an area.	This size identified is a pilot scheme to see whether the irrigation will be feasible if applied in large scale. The pilot would aid in gauging capacity of the community as well

	as find out the economic viability of the same.
We are aware of the project, but do not know its components. Can you articulate them?	The project is a multipurpose dam whose waters will be used to serve Mombasa county via bulk water transmission. It includes the dam reservoir, bulk water transmission pipe to Mombasa and a waste water treatment plant in Mombasa. An irrigation component is also included.
Why is there no component for electricity? The county has a dire shortfall in supply.	The logistics involved and the resultant costs make it difficult to include an electricity generation component as it is now.
Projects of such magnitude bring in-migration. Won't this strain the environment in regards to resource utilization?	Project implementers will sensitize workers who are not from Duruma on how to interact sensibly with the host community to minimize conflicts and allow effective and sustainable use of available resources. A HIV/AIDS and other STIs awareness campaign will also be mainstreamed.
Will the local population be involved during construction?	The project will provide skilled and unskilled jobs during and after construction. It is envisaged that project area residents will be given priority when jobs are allocated, this would go a long way in aiding livelihood restoration especially among those affected directly by the project.

Conclusion

The meeting ended with the resolution that at all the different stages of the project, the county government should be involved in the implementation process. The meeting ended at 10:00 am.

Recorded by – Beatrice Githinji

Approved by - Mark Owuondo

Minutes of meeting held with the Youth at Mnyenzi grounds on 9th April 2014

Present:

- Mark Owuondo Consultant (RAP Team Leader)
- Liya Mango Consultant (GIS Specialist)
- Lydia Olambo Consultant (Gender Specialist)
- Pauline Makhoha Consultant (Gender Specialist)
- Tito Kodiaga Consultant (World Bank)
- Fauziah Mohammed CDA
- Mkalla Mwero CDA
- William Fonda CDA
- Charles Loktari CDA
- Youth

Introduction

The consultants invited the Youth to an exclusive sitting away from their parents. The meeting was opened by a prayer from one of the members present. Members present were then accorded an opportunity to introduce themselves briefly.

Purpose of the meeting

The Youth make up a large part of the community’s demography. As such they are vital stakeholders in any project. Those present were reminded that they were representatives of their colleagues who were unavailable; they were encouraged to air their views on the proposed project freely as they would play an integral part in the realization of the project benefits both during and after construction.

Discussions

The consultative discussion so a number of comments and views raised by the Youth present; a summary of which is tabled below;

<u>Comments/Queries raised</u>	<u>Response</u>
<ul style="list-style-type: none"> • Some of us do stone quarrying and sand harvesting on the river; won’t the completed dam render us unemployed? 	<p>The completed dam will result in benefits that outweigh what they are engaged in at the moment. With the dam operational they would be able to engage in high value crop farming, fishing income would increase and recreation as well as tourism activities would be available to which the youth would be best suited.</p>
<ul style="list-style-type: none"> • Will the proponent utilize local labour or will this be sourced from outside the community? 	<p>The project intends to utilize local labour and will give the youth first priority in allocation of jobs both skilled and unskilled. With the skills they will acquire from the construction of the dam they would then be able to diversify their employment chances.</p>

<ul style="list-style-type: none"> • Will we be compensated for assets we have developed in our parents land? 	<p>They were informed that any who had developed any assets on their parents' property would get full compensation recorded separately after an inventory of loss of assets has been carried out. The law provided for them to be compensated separately on their rights to development on the affected land parcels.</p>
<ul style="list-style-type: none"> • We are concerned that the project may disrupt our social lives, access to our friends and family may be impeded e.g. if the roads are submerged. 	<p>The project will reconstitute any social or infrastructural amenity that may be affected hence social network disruption may be minimal.</p>
<ul style="list-style-type: none"> • We are worried that this project will lead to spread of HIV/AIDS and drug abuse specifically because of the interaction of external workers and our people. 	<p>The implementer will ensure that any external workers will respect the local community. Negative interaction will be curbed and awareness on HIV/AIDS and drug abuse increased.</p>
<ul style="list-style-type: none"> • What do we do in case we have a dispute on how to share compensation proceeds or if we are not satisfied with the compensation provided? 	<p>The project will establish a resettlement and grievance management committee, which will handle all disputes related to compensation. These committees will include the council of elders and kaya elders as well. However, the project will consult widely with the traditional structures and systems on how to handle such cases</p>

Conclusion

The meeting concluded with the resolution that the issues raised by the Youth would be given consideration and incorporated in the project. The youth also requested to be involved in all aspects of the project for its betterment. There being no other business, the meeting ended with a prayer from Suleiman Dalu.

Recorded by – Beatrice Githinji

Approved by – Mark Owuondo

Minutes of meeting held with Kaya Elders at Fulugani Primary on 9th April 2014

Present;

- | | |
|--------------------|--------------------------------|
| • Mark Owuondo | Consultant (RAP Team Leader) |
| • Liya Mango | Consultant (GIS Specialist) |
| • Lydia Olambo | Consultant (Gender Specialist) |
| • Pauline Makhoha | Consultant (Gender Specialist) |
| • Tito Kodiaga | Consultant (World Bank) |
| • Fauziah Mohammed | CDA |
| • Mkalla Mwero | CDA |
| • William Fonda | CDA |
| • Charles Loktari | CDA |
| • Kaya Elders | |

Constitution

The Kaya elders have a strongly held traditional culture, which requires any meeting to start with a prayer. One of the elders prayed before the meeting commencing. The attendants of this meeting were then given an opportunity to introduce themselves so that all would be familiar with each other

Purpose of the meeting

The Kaya is the spiritual home of the duruma. A kaya elder is thus a much-respected member of this society. As such being fundamental stakeholders in the proposed project, the consultants had to seek their views (Kaya elders) in regard to the same.

This Kaya is known as Mtswakara and it is composed of two villages i.e. Fulugani and Miyani.

The main agenda was to discuss matters of a cultural nature of the local community that would be affected by the proposed project. The elders were encouraged to provide guidance on how cultural issues should be managed to ensure the project good will from the community.

Proceedings

The leader of Kaya Mtswakara, Shaban Ndegwa started by giving a brief overview of the Kaya. Below is a summary of the same;

- The Kaya is sacred forest where the people can communicate with their deity.
- Land is owned communally
- Graves can be moved after cultural rituals involving the Kaya Elders have been performed. This issue has not happened within the area of the project for a long time but the Kaya elders will be able to go through the procedure if the need arises.
- Widowed women have fights over property especially where they have young children.
- Kaya elders are the ones who sit and resolve disputes within the community. It is only when it is not possible to have a resolution that matters are taken to law courts.

- The Kaya elders perceive their land as marginalized. The rate of development in their area is low hence the perception.
- The Duruma are keeping their identity and culture even as they get to embrace modernity.
- They dress in their traditional clothing when they pray for rain.
- Not all of the community members can be Kaya Elders. To be a kaya elder a very rigorous vetting ritual before induction.
- Are there restrictions on inter-clan marriages? No, the restrictions may only arise if the clans are having a dispute.
- Kaya Elders requested the project proponent to acquire land and build for them in case of resettlement. They fear that jealousy may arise in the community and thus push the prices of land beyond their means.
- Kaya Elders are informed or consulted before entering the kaya. One needs to be in the company of them.
- Kaya membership is open to both men and women.

Discussions

During the discussion key issues and queries and comments were raised by the Kaya elders to which CDA officials present as well as the consultants responded satisfactorily to as seen on the table below:

<u>Comments/Queries raised</u>	<u>Response</u>
<ul style="list-style-type: none"> • The kaya members were apprehensive as to what would be done to graves within the impound area. 	<p>After consulting with them it was decided that special ceremonies/rituals would be conducted before exhuming the graves and re-burying. These ceremonies would be conducted at the project implementer's cost. Families whose graves will be affected would be compensated at a later to be agreed cost.</p>
<ul style="list-style-type: none"> • There are special caves within Mwache River that are used as prayer shrines, if affected what happens to them. 	<p>The shrines and spirits or 'Mizimu' will be relocated after special ceremonies are carried out for cleansing purposes. The process will be undertaken at the project implementer's expense.</p>
<ul style="list-style-type: none"> • The Kaya members wanted to know the start date of the project. A number of visits and studies have already been done but they see no groundwork commencing. 	<p>The implementer is going through the process to identify project-affected persons and compensate them before commencing construction. The groundwork is expected to start in 2017.</p>
<ul style="list-style-type: none"> • The kaya members expressed concern that the project may disrupt their people's close-knit lives due to displacement. 	<p>The implementer envisages that those PAPs who will be involuntarily displaced will be relocated within clan areas hence no social-network disruptions will occur.</p>

<ul style="list-style-type: none"> • Will the community's youth and able-bodied get an opportunity to be engaged in jobs when the project commences. 	<p>The implementer of the project is keen to have the local community members engaged positively in the construction process. They will ensure that the community gets first priority in job allocations whenever possible.</p>
<ul style="list-style-type: none"> • Will the project have other services such as schools or hospitals? 	<p>The project as at this stage does not have these components but the implementer will liaise with other government agencies to bring more of such services to the community.</p>

Conclusion

The discussion ended with the Kaya members giving their support to the project and promising to inform members of the community on the projects benefits.

Recorded by – Beatrice Githinji

Approved by – Mark Owuondo

Public Consultation Meeting at Mnyenzi on 9th April 2014/Minutes of the public baraza held at Mnyenzi grounds.

Present:

- Mark Owuondo Consultant (RAP Team Leader)
- Liya Mango Consultant (GIS Specialist)
- Lydia Olambo Consultant (Gender Specialist)
- Pauline Makhoha Consultant (Gender Specialist)
- Tito Kodiaga Consultant (World Bank)
- Fauziah Mohammed CDA
- Mkalla Mwero CDA
- William Fonda CDA
- Charles Loktari CDA
- Stakeholders as per attached attendance list.

2. Introduction

The meeting was convened at Mnyenzi in Kasemeni Ward. The stakeholder consultation started with a word of prayer at 2.30 pm. A moment of self- introduction followed which gave the area residents the opportunity to get to know those present. The area Chief Mr. Benson Kalimbo Kokoi then requested the project implementer CDA to inform the public on the purpose of calling the public baraza.

Mr. Mkalla Mwero and Fauzia Mohammed made the presentation in that regard, informing the residents about the intended benefits of the proposed project. The attendees were informed that the consultants were on a tour of the proposed Multi-purpose Dam project area to conduct an ESIA as well as a Resettlement Action Plan exercise that would potentially impact on the locality. Being a consultative forum, the stakeholders had an opportunity to give their comments and/or queries in regard to the project.

Comments/Issues	Response
<ul style="list-style-type: none"> ▪ How will the proponent determine the rate of compensation for land and other property that would be affected? 	Land would be compensated for at prevailing area market rates. A similar approach would be taken for compensating residential dwellings, commercial enterprises together with crops and trees that would be affected.
<ul style="list-style-type: none"> ▪ There are graves in the project area, what happens to them in the event of involuntary displacement. 	With guidance from community elders & kaya elders, cultural rituals and rites would be undertaken to ensure graves are given a dignified re-burial.
<ul style="list-style-type: none"> ▪ Would compensation be money-based or in other form e.g. land for land? 	Compensation would be undertaken as per the preference of the affected person.
<ul style="list-style-type: none"> ▪ As the reservoir fills up there may be 	Mitigation measures have been put in place.

risks to health. Diseases like malaria, bilharzia and other water-borne ailments may increase. How will these be curbed?	Project implementer will ensure preventive measures are applied as well aid in enhancing capacity of health facilities in the area of the project.
<ul style="list-style-type: none"> ▪ There is a possibility of roads and other infrastructure being submerged 	New roads will be built together with bridges where necessary.
<ul style="list-style-type: none"> ▪ There are fears that social networks may be disrupted 	The project has no plans to disrupt the social networks. The project envisages to resettle those affected within their clans hence keep social networks intact.
<ul style="list-style-type: none"> ▪ Is there a grievance redress mechanism system in place and will it be effective? 	There is a grievance redress mechanism in place, which with corporation from the PAPs is expected to handle any issues fairly.
<ul style="list-style-type: none"> ▪ Why is the irrigation command area only 100ha? This is too small an area. 	The area is put at 100ha as it is going to be for learning purposes. Once it is confirmed as a viable investment, 2500ha will be put under full irrigation.
<ul style="list-style-type: none"> ▪ Will my whole land be affected? 	Only the area that is below the 100m contour mark will be affect, those with properties higher than the watermark will not be affected.
<ul style="list-style-type: none"> ▪ Will the dam project provide jobs for our youth? 	The project will aspire to create jobs for the youth and women during construction.
<ul style="list-style-type: none"> ▪ There are some who depend on the river for livelihood e.g. stone quarrying and sand harvesting, will they be compensated for loss of livelihood. 	During the R A P exercise all affected persons will be enumerated. Those whose livelihoods are affected will be compensated for loss of livelihoods and a livelihoods restoration mechanism will be constituted.
<ul style="list-style-type: none"> ▪ Will the project come with electricity supply component? The locality lacks power. 	Mwache Dam project will not be used to generate electricity, the request is however noted and the implementers will liaise with relevant governmental agencies to request them to assist.

Conclusion

The meeting ended at 5.30 pm with a word of prayer from an elder. The Ward Administrator Mr. Prisce Katana advised the residents not to fall prey to conmen who would want to buy their land cheaply as they speculate with it on project compensation rates.

Recorded by Beatrice Githinji

Approved by – Mark Owuondo

Minutes of meeting held with Women at Fulugani Primary on 9th April 2014**Present:**

- Mark Owuondo Consultant (RAP Team Leader)
- Liya Mango Consultant (GIS Specialist)
- Lydia Olambo Consultant (Gender Specialist)
- Pauline Makhoha Consultant (Gender Specialist)
- Tito Kodiaga Consultant (World Bank)
- Fauziah Mohammed CDA
- Mkalla Mwero CDA
- William Fonda CDA
- Charles Loktari CDA
- Women

Introduction

This special group meeting was preceded by a word of prayer by one of the women, Margaret Mvuno. The chair then gave all present an opportunity to introduce themselves before the meeting fully commenced.

Purpose of the meeting

The assembled women were taken through the genesis of the proposed project by the proponent's officials as well as the consultants present. They were informed that the consultants were in their area to carry out an inventory of loss of assets as a component used to determine compensation for those among them who would be involuntarily displaced.

The women were requested to give their candid views in order to ensure their interests would put under consideration. They were reminded that together with the children, they are considered vulnerable hence this was a major chance for them to influence decision-making.

Since they were the ones who did most of the household duties in matters to do with water, they stood to benefit in several areas including time saving from meeting house hold water demands. This would give them time to look at other opportunities for income generation as well as socializing etc.

Discussions

The consultative discussion saw a number of comments and views raised by the women present a summary of which is tabled below;

Comments and Issues	Responses
<ul style="list-style-type: none"> • Among us, there are women who depend on the river as a source of livelihood, we harvest sand from the river and also use the river water to 	<p>The consultants and proponent officials assured them that with the completion of the project more favourable and less strenuous opportunities would arise.</p>

grow food crops. We will lose our livelihoods with the project being implemented.	
<ul style="list-style-type: none"> • Our men own the land here, what happens to us if the men receive compensation and use the proceeds inappropriately? This would impact negatively on our lives. 	<p>Compensation for loss of land will be given to all without discrimination of gender as clearly spelt out in our constitution.</p> <p>The project will also design gender specific income generating initiatives targeting women to reduce their vulnerability</p>
<ul style="list-style-type: none"> • How and who will take the inventory of our assets? What criteria will be used for compensation? 	<p>The resettlement action plan team comprises of enumerators who lead note all assets that are affected in the presence of the owner. Compensation will be pegged on the prevailing market rates.</p>
<ul style="list-style-type: none"> • There are projects that come up and affected people are promised compensation only to be displaced without being compensated or the compensation is not adequate, will this exercise be similar? 	<p>There may have been such occurrences in other projects but the women were assured that would not happen in regard to Mwache dam. All affected would be reasonably compensated and this would be done before they are relocated.</p>
<ul style="list-style-type: none"> • Would our youth be able to get jobs once the implementation process begins? 	<p>The implementer of the project is keen to have the local community members engaged positively in the construction process. They will ensure that the community gets first priority in job allocations whenever possible.</p>
<ul style="list-style-type: none"> • Will the project have other services such as schools or hospitals? 	<p>The project as at this stage does not have these components but the implementer will liaise with other government agencies to bring more of such services to the community.</p>

Conclusion

The discussion ended with the women present promising to inform their colleagues on how the project would be of benefit to their lives. They also promised to galvanize support for the project in the community as a whole. Halima Mwero gave a vote of thanks and ended the meeting with a prayer.

Recorded by – Beatrice Githinji

Approved by – Mark Owuondo

Public Consultation Meeting at Pemba Village on 1 May 2014/Minutes of the public baraza held at Pemba Primary School grounds.

Present:

- Mark Owuondo Consultant (RAP Team Leader)
- Liya Mango Consultant (GIS Specialist)
- Lydia Olambo Consultant (Gender Specialist)
- Pauline Makhoha Consultant (Gender Specialist)
- Tito Kodiaga Consultant (World Bank)
- Mkalla Mwero CDA
- William Fonda CDA
- Stakeholders as per attached attendance list.

3. Introduction

The meeting was convened at Pemba in Mwatate Ward. The stakeholder consultation started with a word of prayer at 11:00 AM. A moment of self- introduction followed which gave the area residents the opportunity to get to know those present. The area Assistant Chief Mr. Nasib Chirima Mwingo then requested the project implementer CDA to inform the public on the purpose of calling the public baraza.

Mr. Mkalla Mwero and William Fondo made the presentation in that regard, informing the residents about the intended benefits of the proposed project. The attendees were informed that the consultants were on a tour of the proposed Multi-purpose Dam project area to conduct an ESIA as well as a Resettlement Action Plan exercise that would potentially impact on the locality. Being a consultative forum, the stakeholders had an opportunity to give their comments and/or queries in regard to the project.

Comments/Issues	Responses
<ul style="list-style-type: none"> ▪ The land is under group ranch system, who will get the compensation? Is it the group ranch members or individual utilizing the land? 	Compensation would apply to the individual utilizing the affected land area.
<ul style="list-style-type: none"> ▪ Is the project implementer intending to lease the land for irrigation pilot scheme from owners or will they buy it outright? 	The project will wholly acquire the land mass needed and will give full prevailing market rate prices for the acquisition.
<ul style="list-style-type: none"> ▪ Will compensation be monetary or land for a replacement parcel? 	Compensation would be undertaken as per the preference of the affected person.
<ul style="list-style-type: none"> ▪ Where is this area identified for the pilot scheme? Will the whole village be affected? 	The project studies identified an area of 100ha by the river bank. Thus the village will not be completely affected.
<ul style="list-style-type: none"> ▪ 100ha is too small for an irrigation scheme, why not add? 	This is a pilot scheme meant to gauge the viability of the component. If it is deemed successful a full project taking in 2000ha

	will be rolled out.
<ul style="list-style-type: none"> Will the irrigation system entail the use of chemicals e.g. fertilizers? They could be harmful to the bio-diversity? 	The project has prepared an integrated Pest management plan that will be used to mitigate such situations when the need would arise.
<ul style="list-style-type: none"> Since the land is regarded as belonging to the household head (mostly the man) how will the project implementer ensure compensation will be beneficial to all household members? 	<p>Compensation for loss of land will be given to all without discrimination of gender as clearly spelt out in our constitution.</p> <p>The project will also design gender specific income generating initiatives targeting women to reduce their vulnerability</p>
<ul style="list-style-type: none"> In case I am not satisfied with the rate of compensation, what recourse do I have, the government is very powerful? 	A grievance redress mechanism system has been drawn up and will guide all PAPs when and if a grievance matter is noted.
<ul style="list-style-type: none"> Will the project provide job opportunities for us? 	As a demonstration and learning facility the project will be of benefit to all. During construction of check dams, jobs will be available both skilled and unskilled and the host community will get first priority.

Conclusion

The meeting ended at 1:00 pm with a word of prayer from an elder. The Ward Administrator Mr. Mwanjole counseled the residents to utilize the opportunity to learn new and better farming systems from the intended pilot irrigation command area. They were also advised to use what they get from compensation prudently for their own good.

Recorded by – Beatrice Githinji

Approved by – Mark Owuondo

APPENDIX 2-LIST OF CONSULTED PERSONS

STAKEHOLDERS CONSULTATION MEETING – ENVIRONMENTAL AND SOCIAL ASSESSMENT, RESETTLEMENT ACTION PLAN AND VULNERABLE AND MARGINALISED GROUPS FOR MWACHE DAM PROJECT
HELD AT FULUGHANI AND MNYENZENI, 9th April 2014

	Name	Village	Telephone number
1	SHABAM NDEGUA.	FULUGHANI	0728175091.
2	NYAYE MRISA.	"	
3	UMAZI NYAYE	"	
4	ZANABU NYUNDO KARIMBO.	"	
5	MREYU NDEGUA.	"	0715 574 581.
6	ANIZAZU DOGO	MIYAMI	0706356073
7	MAVULA NYAWIA MGAZI.	FULUGHANI	
8	MATARI MWAGATI.	MIYAMI.	0729 013 468.
9	GOGO KEKE	ETA Fulughani.	072877345 0728771127.
10	REKWE CHIRONGO.	MIYAMI	
11	MAJUMAA TUNGWA	"	-
12	MWERO KARIMBO.	"	0711 852 815.
13	NGALAA YAMBIA	"	0711 646486.
14	KUPHA MWATELA.	"	07
15	MWAKA MTULA.	"	.
16	MREYU KEMBOGHO.	"	
17	MNARO KOKOTA.	FULUGHANI	-
18	MANGALE NDEGUA.	"	
19	UMAZI CHAKA	"	
20	MREYU DETE	MIYAMI	
21	RIZIKI CHIBUSO.	FULUGHANI.	
22	NYAMVULA ZUMA.	"	
23	MALAO NDEGUA.	"	
24	CHIGUSA ZUMA	"	

MNYENZENI

**STAKEHOLDERS CONSULTATION MEETING – ENVIRONMENTAL AND SOCIAL ASSESSMENT, RESETTLEMENT ACTION PLAN AND VULNERABLE AND MARGINALISED GROUPS FOR MWACHE DAM PROJECT
HELD AT FULUGHANI AND MNYENZENI, 9th April 2014**

	Name	Village	Telephone number	
1	KHAJISA H. MAZO	MUYANI	0728541415	<i>[Signature]</i>
2	NDEGWA MUNGA	YOWANI	0416688809	<i>[Signature]</i>
3	FRANCIS NDEGWA	PEKU	0700010298	<i>[Signature]</i>
4	MBAJI KWALE	CHIGGONI	0724991427	<i>[Signature]</i>
5	MWARUWA RUWA	MITULU	0716989232	<i>[Signature]</i>
6	SIRA MBGA	MNYENZENI	0717407028	<i>[Signature]</i>
7	RASHID MAKANZU	MNYENZENI	0717082255	<i>[Signature]</i>
8	NTANJE ZOZA ATUB	KILIBOLE	0700532406	<i>[Signature]</i>
9	NYAMAWI DIYO	MNYENZENI		
10	SANADZA MVUNGU	MWACHE		
11	JONATHAN MANGALE	PEKU	0735378082	<i>[Signature]</i>
12	JUNGWA MWAMULA	PEKU	0723-708580	<i>[Signature]</i>
13	MWARUWA DIYO	MNYENZENI		
14	CHIDINYA PILI	MITULU		
15	MWAZA MNDALU DIYO	MNYENZENI	0727026061	<i>[Signature]</i>
16	MWAHANJE KANTAMA	MNYENZENI	0706964232	<i>[Signature]</i>
17	MATARI NYAE	MISUNENI	0727564395	<i>[Signature]</i>
18	ZUMA MASA	VITANGANI	0715678839	<i>[Signature]</i>
19	NTUMA MSAZA	MNYENZENI		<i>[Signature]</i>
20	DZUHA CHIRO	MNYENZENI	0726	<i>[Signature]</i>
21	MWAGWARU MISONA	MNYENZENI	0713661981	<i>[Signature]</i>
22	OMAR MWERO	MITULU	0714602150	<i>[Signature]</i>
23	SANADZA JUNIOR	MWACHE	0700355097	<i>[Signature]</i>
24	JAMES ROME BIAU	MITULU	0727612879	<i>[Signature]</i>

Tech Training & Research & Safeguards Environmental Consultants

25	HAMISI CHMERAH	MNYENZENI	0715503958	27
26	CHIMENE MAMBO	VIKLANI	0721947584	27
27	HAMISI KALUME KAZUNU	KILIBCHE	0717416357	27
28	KWAKA CHIRONGO	MNYENZENI		
29	BEJA MWAMBA	KILIBCHE	0718578669	
30	STEPHEN TUNUWA	MTULU	07 0907268540	27
31	RUWA NYATEJE	VIKLANI		
32	CHIKOZA KUKOI	MIYANI	0723708580	27
33	CHILIO KAZUNU	KILIBCHE		
34	TABU IBRAHIM	MNYENZENI		Tabu
35	MWERO TAWA	MTULU		
36	LUVUNU NYAMANI	MNYENZENI		
37	KACHACHE MWERO	MTULU	0732414790	27
38	UMAZI MWAMBA	KILIBCHE		
39	EMILY SAMUEL	MTULU		
40	MOHAMED MAKANZI	KILIBCHE	0723-458986	27
41	MAKZALE CHIKOZI	MNYENZENI	0702042052	27
42	BETHORA MBIKA	MNYENZENI	07	27
43	SAUMU GIMAR	MNYENZENI		
44	JEAN MWADALU JIRA	NYATEHE	0726622585	27
45	MLONGO AITHUMAN	VITAGANI		
46	CONSTANCE MBOZE	CHIKOZI	0720154419	27
47	MLONGO KUMBO	MNYENZENI		
48	UMAZI BARUWA	MNYENZENI		
49	REHEMA NYAMANI	MIYANI		
50	CHIZI MNDALU	MNYENZENI		
51	SERAH CHIKUTA	MNYENZENI		
52	CHINYAVU NYAMANI	MNYENZENI		
53	JUMWA NBORE	KILIBCHE		

Tech Training & Research & Safeguards Environmental Consultants

54	MWONGO MWAJAHU	VIKOLANI	
55	CHIPHENYO MBOZA	KILIBOE	
56	MWANALIMA KAZUNGU	MNYENZENI	
57	HADITHA ALI MSEMU	MNYENZENI	
58	MESALIMU MUNGUMU	MNYENZENI	
59	KACHIMBIZI DIYO		
60	UMAZI CHIMERA	MNYENZE	
61	MJENI CHUMBO	MNYENZENI	
62	ELIZABETH CHEU	MNYENZENI	
63	CHINYAVU ZUMA	MNYENZENI	
64	MBEYU NYAMANI	MNYENZEWI	
65	DZAME CHIRO	MNYENZENI	
66	KWEKWE NYAMANI	MNYENZENI	
67	EUNICE MKARTE MAJANJA	VIKOLANI	
68	FALUMA HAMISI	VIKOLANI	
69	MJENI NGOKA	MNYENZENI	
70	MBOZE RAMAAN	MNYENZENI	
71	NIRALA CHIZAMA	MNYENZENI	
72	JUMAA MWACHOUU	MNYENZENI	
73	MANALE SWEDG	VIKOLANI	
74	MWARUWA ZUMA	MWACHE	

STAKEHOLDERS CONSULTATION MEETING – ENVIRONMENTAL AND SOCIAL ASSESSMENT, RESETTLEMENT ACTION PLAN AND VULNERABLE AND MARGINALISED GROUPS FOR MWACHE DAM PROJECT
HELD AT PEMBA PRIMARY SCHOOL ON MAY 1 2014 (PILOT IRRIGATION COMMAND AREA 130ha)

	Name	Village	Telephone number
1	KARUNGA MANGALE NGOMA	MATUMBI B	0703301454
2	OSMUS KOMBO KALIMBO	PEMBA CENTRAL	0710450620
3	KOMBO MANGALE	MATUMBI B	0724881462
4	BEJA GUNI	PEMBA	
5	KAMB I MWAPELA	PEMBA	0727365781
6	MWAPELA MWAPELA	PEMISA	0715227504
7	DZUMAMWENGA MUYIKA	PEMBA	0731296410
8	Muzono Y GUNI	PEMBA	0702811547
9	NGALAA NYAMADI	PEMISA	0720092869
10	MANGALE NYATI MCHANSANGU	PEMISA	0724531210
11	MARGHA SAMUEL BADA	PEMISA	0716253392
12	ESTINS MCHANSANGU	PEMISA	071042368
13	NGALAA NYATI	PEMISA	
14	MUYIKA BEJA	PEMISA	
15	Mulongo Buni	PEMISA	
16	BEJA MUYIKA	PEMISA	0734705205
17	KANZO MANGALE	PEMISA	
18	UMAZI NDARA	PEMISA	
19	LUVUNO LUSO	PEMISA	
20	SALAMA MCHIWATA	PEMISA	
21	HABIBA NGALAA	PEMISA	
22	MWAMAMISI GINGO	PEMISA	
23	ANINA MWAMUMBA	PEMISA	
24	MWANAJUMA NDEME	PEMISA	

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25	JUSTINE MAZERA BIDU	PEMBA	0721177705
26	CHIBOBO MAYSISA	PEMBA	
27	MGULWA MAKAZI	PEMBA	
28	REGGA MAZERA	PEMBA	
29	MARIAM LUGOGO	PEMBA	
30	MILONGO GINGO	PEMBA	
31	MINYAZI KAMANZA	PEMBA	
32	KABIDE NDUNJI	PEMBA	
33	TUMAINI MWAMRANYI	PEMBA	07 23 65 2898
34	KANGA KAMANZA	PEMBA	
35	MILONGO NGUIA SAMUEL	PEMBA	07444 07 14 94 4911
36	MARIAM MBAE	PEMBA	0714242710
37	KAZO MINYIKA	PEMBA	
38	KABIBI BEJA	PEMBA	
39	JOHN NDEME	PEMBA	
40	MWARI BORA	PEMBA	
41	MURA SWALEH	MADIKONI	
42	SALAMA GUNI		
43	DUNCAN N. CHKOZA	MADIKONI	
44	NYONDO M. BEJA	NIHUVU	
45	CHRISTOPHER LAU	PEMBA	0701363749
46	MUSI MAZERA	PEMBA	
47	NDOME MGANZI	PEMBA	07245748526
48	BUMBA BIDU	PEMBA	0728781981
49	KUWIENYWA NDEME	PEMBA	
50	DUNCAN N. MRABU	JITSAKAVIRI	0723609203
51	GIDEON L. MUGAMBA	PEMBA	0700038467
52	CHIPORI BADA	KASEMENI	
53	KAMANZA MWATERA MAMBA	KASEMENI	

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STAKEHOLDERS CONSULTATION MEETING –ENVIRONMENTAL AND SOCIAL ASSESSMENT, RESETTLEMENT ACTION PLAN AND VULNERABLE AND MARGINALISED GROUPS FOR MWACHE DAM PROJECT
HELD AT PEMBA PRIMARY SCHOOL ON MAY 1 2014 (PILOT IRRIGATION COMMAND AREA 130ha)

	Name	Village	Telephone number
54	NGUITAH NYAMAWI BATI	KASEMENE	0718961178
53	ALISTAIR NYAMAWI NDORO	PEMBA	0710727765
58	DANIEL MWACHIRO AIYO	NIHUTU	0700439268
57	ALFAN N. MANGALE	PEMBA	0724728334
58	OMAR CHUPHI DRUAMWENGA	PEMBA	0717732472
59	BAKARI MWATEKA MBUI	PEMBA	0916696959
60	BOWFACE MAZERA NYAMAWI	PEMBA	
61	MDIWE TCHI NYONDO	NITSIKA-VIRI	
62	MORIS MKUBA LUOGO	PEMBA	0728866981
63	JUMA NYONDO CHALLO	NIHUTU	
64	DAUDI LUQA MKALLA	NGEYENI	0718163621
65	SALIM NDENGI MWERO	PEMBA	0729326544
66	SHEA MWERO	PEMBA	0715749452
67	ZUMA BOMBO GINGO	PEMBA	0739258689
68	ANDERSON SHANGA BOMBO	PEMBA	0754925438
69	HAMIS NDEME LUOGO	PEMBA	0711190348
70	YUMA CHOMBO	PEMBA	0714412372
71	NYAMVULA MWARUA BETHA	PEMBA	0787104239
72	ISA MWAISARA NYAMAWI	PEMBA	0735886379
73	MAZERA CHIPORI BADA	MGANDINI	0701125034
74	ALTER NDEME PALA	PEMBA	0711520334
75	CHIRIMA NDEGWA MONGO	PEMBA	0729217308
76	ABRAHIM NGUIA (BENTA)	PEMBA	0704998409
77	KASSIM NGOME NYOIA	PEMBA	0714833154

FULUGHANI

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STAKEHOLDERS CONSULTATION MEETING – ENVIRONMENTAL AND SOCIAL ASSESSMENT, RESETTLEMENT ACTION PLAN AND VULNERABLE AND MARGINALISED GROUPS FOR MWACHE DAM PROJECT HELD AT FULUGHANI AND MNYENZENI, 9th April 2014

Name	Village	Telephone number
1. Fatima Nyota.	Fulughani	0714 924892.
2. Njupa Oman.	"	—
3. Nyamvira Twama.	Mabiricani	—
4. Vungwe Ndegwa.		
5. G Ngala Chirima.		
6. Hassan G. Cinata.		
7. Banju a. Gwaya.		
8. Rogers Mangale Mwero.		
9. Hamisi Akili Mangale.		
10. Chirima Mwingo.		
11. Njwanjise Bw.		
12. Mdzomba Mwamlonga.		
13. Peter Kagungu Ngoda.		
14. Mboru Mwangi.		
15. Ngasi Mvuvya.		
16. Choga Kombi.		
17. Rajab Ngome.		
18. Karisa Mwasheya.		
19. Samuel Jefa.		
20. Ngaku Maki.		
21. Nyamvira Masudi.		
22. Nzingo Kakala.		
23. Dzame Mwaingo.		
24. Rehema Kambi.		

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25-	Ngizigo	Nayudo.	
26.	Angazi	Mwambodze.	
27.	Mjera	Xungwe.	
28.	Saumv	Tsvma.	
29.	Saumv	Kenya.	
30.	Njira	Chikuzo.	
31.	Chavriku	Chengo.	
32.	Mwaka	Mwahul.	
33.	Margret	Wambui.	
34.	Zawadi	Abdalla.	
35.	Mbeyu	Mlai.	
36.	Kwekwe	Mboga.	
37.	Patience	Chigubi.	0707268892.
38.	Sofia	Said.	
39.	Mariam	Swahehe.	
40.	Juma	Ngome.	
41.	Mjera	Mganga.	
42.	Chizi	Mgali.	
43.	Saumv	Chirima.	
44.	Chizi	Mganga.	
45.	Umasi	Agal.	
46.	Luwao	Said.	
47.	Fatumo	Mambo.	
48.	Khadija	Kenya.	07
49.	Juliana	Harrison.	0710-588991.
50.	Dama	Jefa.	
51.	Dora	Mbuche.	
52.	Nadzog	Said.	
53.	Omar	Sawa.	

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53.	Mkuba Ngug.	
54.	Kombo Mweru.	
55.	Aganta Juma.	0729856468.
56.	Sarah Mazerah.	0170519299
57.	Kwakwe Ngug.	0120819299 0113654558.
58.	Mwanakombo Ndeme.	045 8 84548 0227072888
59.	Mjeni mganga.	0727072888.
60.	Nadzog mganga.	
61.	William mwanga.	
62.	Juma makano.	0710474118.
63.	Luvuo Bura.	0716108598.
64.	Mwanasha Juma.	
65.	Haron Joto.	
66.	Baja mar.	
67.	Mbodge mrema.	
68.	Maghi Jira.	
69.	Ahmani Buvuu.	
70.	Alice Rudha.	070218623.
71.	Loice mwangini.	
72.	Mzalambi limo.	
73.	Margret Ngao.	0718216068.
74.	Mlongo Swale.	
75.	Asha Kachongo.	0716914248.
76.	Jumwa Mwangile.	
77.	Mkambe Rumba.	
78.	Mujeni Rura.	
79.	Esther Sudi.	
80.	Mkambe Kutwanyu.	
81.	Mbeyu limo.	

Meeting with Coast Development Authority-7th April 2014

Environmental and Social Assessment/Resettlement Action Plan and Social Assessment Study

Attendance

1. Fauzia Mohammed- Research and Planning Department
2. Ruth Mwachogu- Research and Planning Department
3. Doreen Otieno- Research and Planning Department
4. Golbert Mahigacho- Research and Planning Department
5. William Fondo-Agricultural Engineer
6. Simon Loktari-Planning and Planning
7. Rose Rehema-Community Development Officer
8. Mcharo Mwalugha-Agriculture Officer

Consultants

1. Mark Owuondo-RAP Team Leader
2. Liya Mango-GIS Specialist and Surveyor
3. Tito Kodiaga-Environmental and Social Safeguards-WSCR
4. Lydia Olambo-Social Specialist
5. Pauline Akiny-Gender Expert

Location of Mwache Irrigation Pilot Scheme

The land in the MIPS is communal land (tenure ship) and has been identified by CES and there is need for a map showing the project area.

MOWASCO/CWSB

A meeting with MORDA and CWSB scheduled for Monday 7th April 2014 to collect maps of the transmission line from Mwache to Mombasa and the wastewater treatment site.

MAPs/DATA

The consultants requested for any relevant materials or maps for the project area in order to familiarize with the project. Any relevant documentation generated. Consultants requested for **Integrated County Development Plan for Kwale**

STAKEHOLDERS

The consultants requested for a list of the stakeholders involved in the project and further requested for meetings with County Governments (Executives/Ward Administrators)

FIELD SCHEDULE AND WORKPLAN

Activity	Schedule
Meeting with CDA, CWSB and MOWASCO	Monday 7 th April 2014
Meeting with Kwale County Government; Meeting with Provincial Administration;	Tuesday 8 th April 2014
Meeting with Project Affected/Public Baraza in Fulughani and Mnyenzi	Wednesday 9 th April 2014
Census Survey	Thursday:
Census Survey	Friday
Census Survey	Saturday
Census Survey	On going till all PAPs are enumerated

Land allocation-Mwache Pilot Irrigation Scheme

The land for the MPIS will be through leasehold where the communities with land in the pilot scheme will lease land to other community members (one acre each). The requirement is that there must be willingness for the landowners to lease land.

Other Issue Discussed

1. Facilitation costs for the community members during public meetings mainly refreshments
2. Costs related to hire of halls, chairs, and public address
3. Remuneration for chiefs, assistant chiefs, ward administrators, District officer

APPENDIX 3-PHOTOGRAPH PLATES



20140409_113202



20140409_113239



20140409_113249



20140409_113306



20140409_113318



20140409_113333



20140409_113525



20140409_113536



20140409_113546



20140409_123417



20140409_123427

20140409_123453



20140409_123525



20140409_123536



20140409_124105



20140409_124110



20140409_143638



20140409_143646



20140409_143728



20140409_143747



20140409_143754



20140409_143804



20140409_143810



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20140409_144031



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20140409_161005

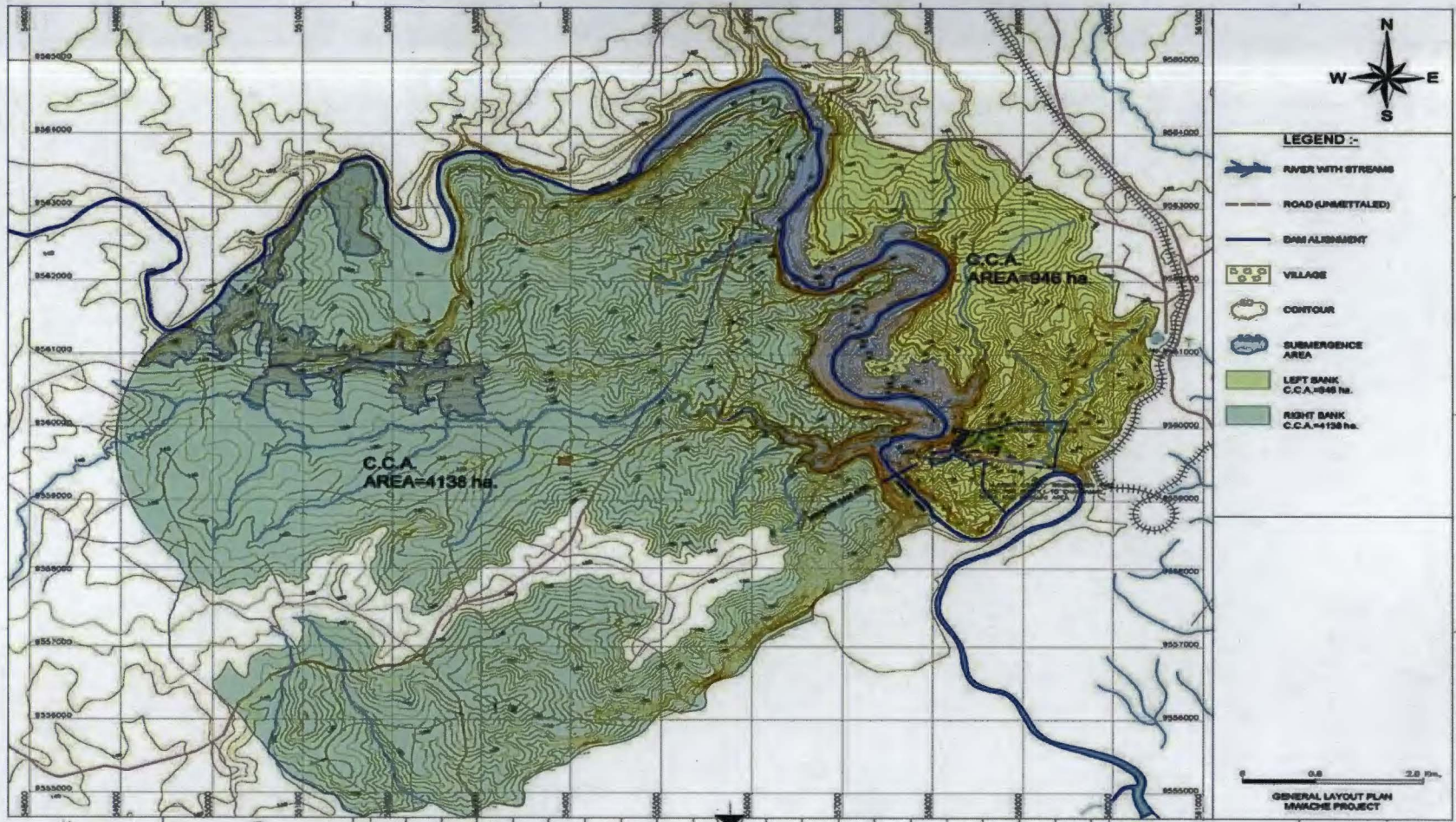


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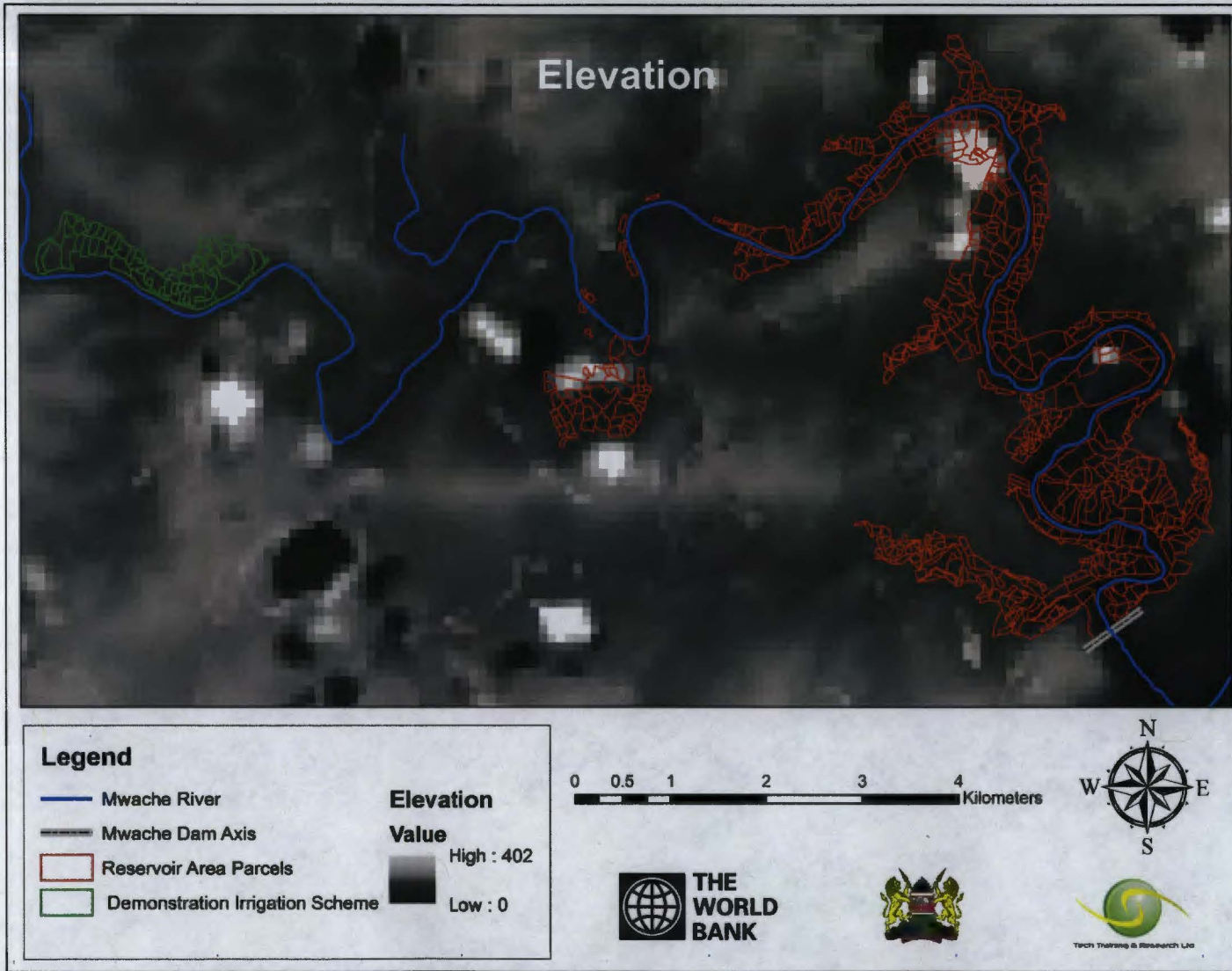
APPENDIX 4-MAPS OF PROJECT LOCATION



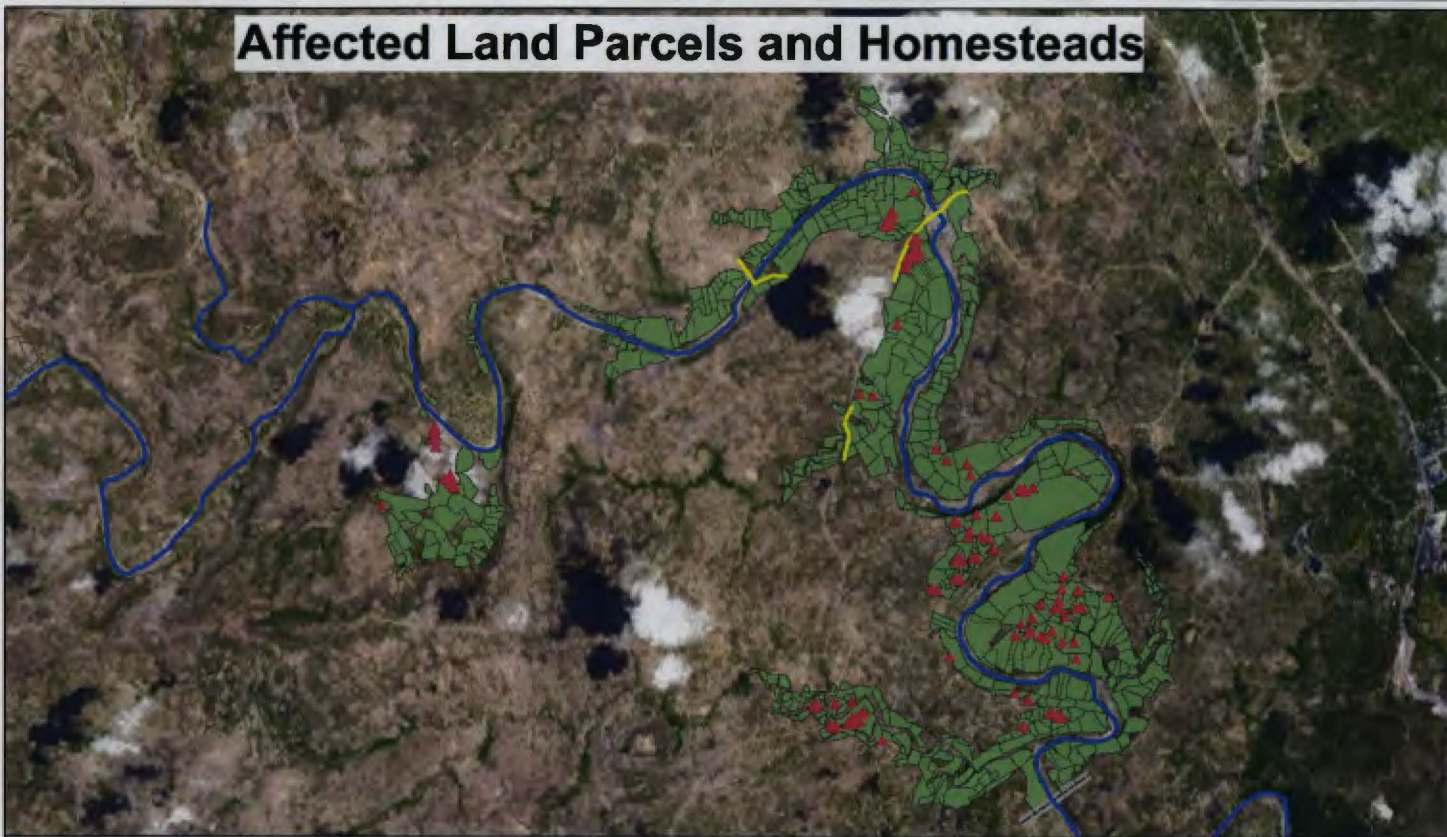
Demonstration Irrigation Area Map (Courtesy of CES Consultants)








Detailed Study Area map (Courtesy of CES Consultants)



Affected Land Parcels and Homesteads

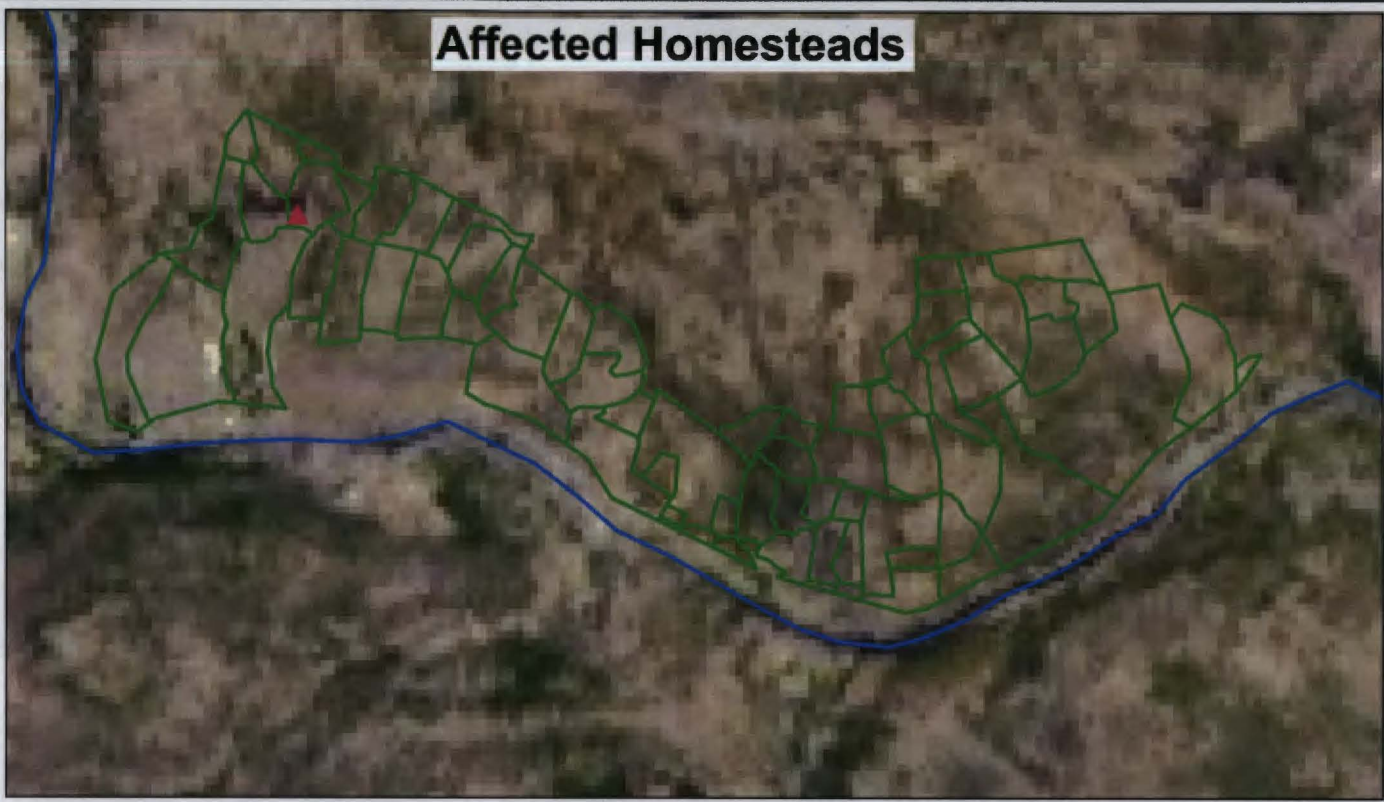


Legend

-  Affected Roads
-  Homesteads
-  Mwache River
-  Mwache Dam Axis
-  Reservoir Area Parcels



Affected Homesteads

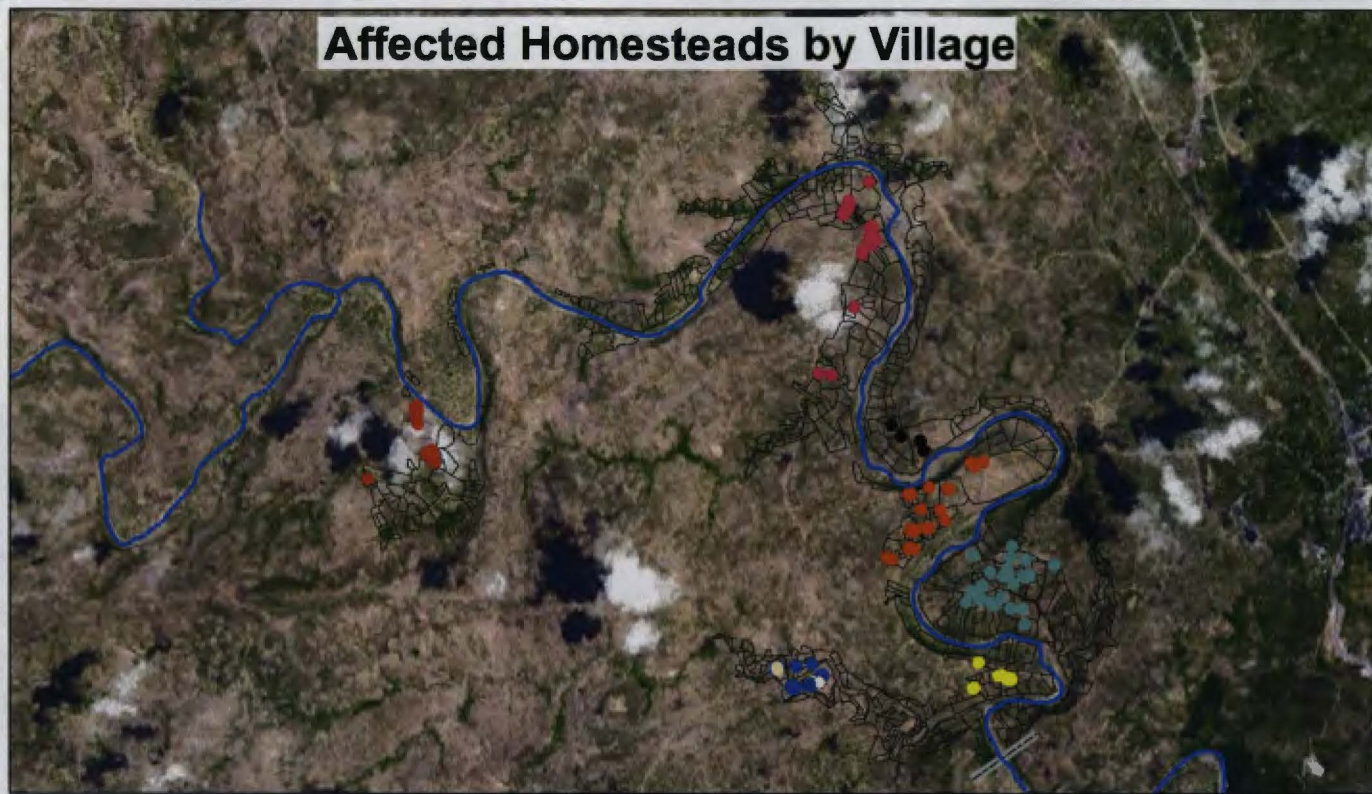


Legend

- ▲ Homesteads
- Demonstration Irrigation Scheme
- Mwache River



Affected Homesteads by Village



Legend




- Vikinduni
- Nunguni
- Mwache
- Mnyenzi
- Chinguluni
- Chigato
- Bokole
- Mwache River
- Mwache Dam Axis
- Reservoir Area Parcels

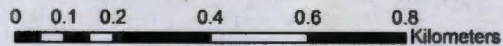


Affected Homesteads by Village

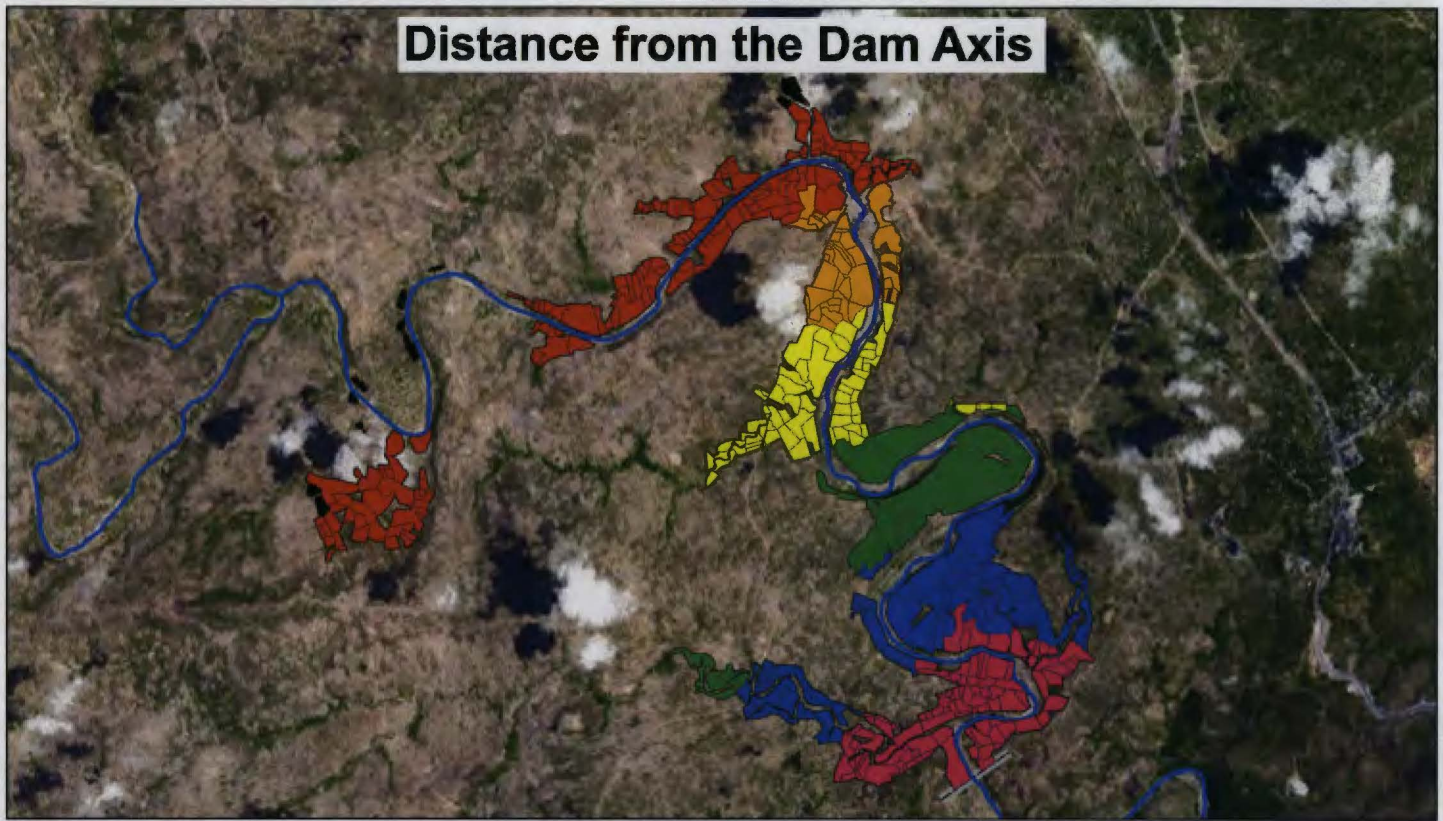


Legend

-  Pemba
-  Demonstration Irrigation Scheme
-  Mwache River



Distance from the Dam Axis



Legend

- 1 km
- 2 km
- 3 km
- 4 km
- 5 km
- 6 km
- 7 km
- Mwache River
- Mwache Dam Axis



APPENDIX 5. REFERENCE FIGURES FOR RATES OF TREES

CROP RECOMMENDED COMPENSATION RATES- MSAMBWENI DISTRICT 2012.**ANNUAL CROPS**

Crop	Plant Population Per Ha	Recommended Compensation Per Plant (Kshs)
Maize	37,000	7.00
Rice	333,000	3.00
Sorghum	44,000	11.00
Millet	44,000	11.00
Cassava	12,000	20.00
s/potatoes	18,000	15.00
Cowpeas	55,000	3.00
p/peas	5,000	33.00
Green grams	37,000	5.00
Beans	55,000	4.00
Ground nuts	55,000	7.00
Simsim	110,000	3.00
Tomatoes	24,000	26.00
Kaies	27,000	15.00
Capsicum	37,000	20.00
Watermelon	2,500	132.00
Cotton	37,000	4.00
Brijals	22,000	15.00
Okra	24,000	20.00
Pumkin	2,500	132.00
Sunflowe	44,000	5.00
Amaranthus		28.00
Tunguja		15.00
Sisal(stool)		66.00

NB: 10% of the old rates have been used to take care of the increase in inputs prices in the market.

B. PERENNIAL CROPS

RECOMMENDED COMPENSATION PER PLANT (KSHS)

CROPS	YOUNG	MEDIUM	OLD
Coconut	132	528	1452
Cashewnut	66	198	634
Mangoes Apple	132	660	3564
Ngowe	132	660	3564
Boribo	132	660	3564
Dodo	132	660	3564
Exotic	132	660	3564
Mango Local	66	396	950
Oranges	132	528	1320
Lemons	40	264	594
Limes	40	264	594
Jackfruit	132	528	1584
Custard Apple	26	12	297
Guavas	26	132	297
Mulberry	26	53	132
Bixa	40	132	317
Grape Fruit	40	132	396
Pineapple	10	25	27
Passion Fruit	26	106	264
Sugar Cane	10	18	35
Kapoktree	26	132	264
Pawpaw	26	53	132
Bananas	40	66	132
Avocados	132	396	1,188

NOTE: 10% of old compensation rates have been used to cushion the inflationary effects of the economy since the rates were reviewed in 2010.

10% of the old rated for the year 2012.

APPENDIX 6. HOUSEHOLD QUESTIONNAIRE

IN DEPTH HOUSEHOLD QUESTIONNAIRE –Questionnaire A PLUS

County	Sub County	District	√	Ward: _____	Respondent: _____		
				Village: _____	Relationship with the Head of the household: _____		
1. Kwale	1.	1.		GPS Coordinates : W P T <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Household Number: _____	Interview date: _____	
		2.					
3.							
	2.	4.		Eastings: <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Surveyors:	1.	_____
2. Mombasa	3.	5.		Northings: <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		2.	_____
		6.				3.	_____
		7.				4.	_____
		8.		No. Photo camera: _____	Verified by: _____		
		9.		No. Photo/s: _____	Verification date: _____		
		10.			Entered electronically by: _____		
		11.					
		12.					

1. Head of Household

- 1.1 Name of the Head of household: 1.2 Gender: 1- M 2- F 1.3 Age :
- 1.4 Identity Document: **1.4.1 Issuing Country:** 1.4.2 Type of Document: 1.4.3 Number of Identity Document:
- Identity Document - Type of document (1.4.2):**
 1- National Identity Card 2- Birth Certificate 3- Driving License 4- Passport 5- Other (specify)
- 1.5.1 Mother's Name: 1.5.2 Father's Name:

1.6 If from a different village, please indicate:

1.6.1 For how many years have you been living in your current village? : 1.6.2 Why are you living in this village?:

Reason why you are living in your current village (1.6.2) :

- 1- Marriage 2- Born in village 3- To look for employment 4- Exploit the wetlands 5- To look for land
 6- Fishing 7- Trade activities 8- Retirement 9- Other (specify)

1.7 Occupation of the Head of the household

1.7.1 Primary occupation: 1.7.2 Secondary occupation: 1.7.3 Tertiary occupation:

Primary, secondary and tertiary occupation (1.7.1 – 1.7.2 – 1.7.3) :

- 1- Farmer 2- Animal breeder 3- Farmer-Breeder 4- Fisherman or Fish farmer 5- Builder 6- Agricultural worker
 7- Animal breeding labor 8- Fishing/Fish farming labor 9- Building labor 10- Self-employed craftsman/woman 11- Employed craftsman/woman
 12- Non-employed home helper 13- Trader 14- Seller 15- Shop assistant 16- Civil servant
 17- Student 18- Housewife 19- Without occupation/employment 20- Other.....

1.8 Education level of the household head:

Education (1.8):

- 1- Without education 2- Did not complete primary education 3- Completed primary education 4- Did not complete secondary education
 5- Completed secondary education 6- Completed technical training 7- Completed vocational training 8- Other:

1.9 Can read and/or write: 1- Yes 2- No

1.10 Language spoken at home: 1- Kiswahili 2- English 3- Mother tongue 4- Other (specify)

2. Other household members: Provide information on other household members specifying their relationship with the Head of the household

No.	Name of Household Member	Relationship with the Head of the household	Identity Document		Gender 1-M 2-F	Age	Occupation			Education	Can read and/or write
			Type	No.			Primary	Secondary	Tertiary		1 – Yes 2 – No

Relationship with the household head:

- 1- Spouse 2- Son/Daughter 3- Parent (Father/Mother) 4- In-laws 5- Brother/Sister 6- Brother/Sister-in-law
 7- Nephew/Niece 8- Grand-son/daughter 9- Cousin 10- Other parent 11- Other (specify)

Identity Document – Type of document:

- 1- National Identity Card 2- Birth Certificate 3- Driving License 4- Passport 5- Other (specify)

Primary occupation, Secondary and Tertiary:

- Refer to codification question 1.7

Education:

- Refer to codification question 1.8

3. For all household members

No.	Categories of people in the household	1- Number of Males	2- Number of Females
3.1	School age persons (6-15 years old) :		
3.2	School age persons (6-15 years old) attending school:		
3.3	Household members with a paid job:		
3.4	Household members who cannot have a paid job for health reasons:		

4. Household's Living Conditions

- 4.1 Access to drinking water (more than one possible answer):
- 1- Traditional well at home 2- Borehole at home 3- House with a water tap 4- Access to public water taps outside the house
 5- Access to water sources or boreholes outside the house 6- Access to surface water 7- Rainwater 8- Other (specify).....
- 4.2 Sanitary facilities (more than one possible answer):
- 1- Flush toilet in the house 2- Latrine with septic tank 3- Latrine without septic tank 4- Public toilets outside the house 5- None
- 4.3 Energy - Type of lighting (more than one possible answer):
- 1- Electricity (public utility) 2- Electricity (power generator) 3- Oil lamp/lantern 4- Kerosene lamp/lantern 5- Wood 6- Candle 7- None
 9- Other
- 4.4 Energies – Cooking combustible (more than one possible answer):
- 1- Electricity 2- Kerosene 3- Charcoal 4- Gas 5- Firewood 6- Dead plants 7- Other

4.5 Household equipment: (indicate number of items if applicable)

Item	Number	Item	Number	Item	Number	Item	Number	Item	Number	Item	Number
Bicycle		Motorcycle		Truck		Car		Canoe		Boat	
Mobile phone		Tractor		Motor pump		Radio		TV set		Generator	

4.6 Household equipment - Mosquito nets: Yes No

4.7 Household member (s) who contracted malaria during the past year : (indicate number for each age group if applicable)

Age groups in the household	1- M	2- F
Persons aged 0 to 5		
Persons aged 6 to 15		
Persons aged 16 to 60		
Persons aged over 60		

4.7.1 Number of pregnant women who contracted malaria during the past year:

4.7.2 Number of hospitalizations and deaths attributable to malaria during the past year: Hospitalization: Death:

4.8 Household member (s) who suffered from diarrhea and/or abdominal pain during the past year : (indicate number for each age group if applicable)

Age groups in the household	1- M	2- F
Persons aged 0 to 5		
Persons aged 6 to 15		
Persons aged 16 to 60		
Persons aged over 60		

4.8.1 Number of pregnant women who suffered from diarrhea and/or abdominal pain during the past year :

4.8.2 Number of hospitalizations and deaths attributable to diarrhea and/or abdominal pain during the past year: Hospitalization: Deaths:

4.9 Household member (s) affected by blindness: (Indicate number of people affected)

4.9.1 If your answer to the previous question is higher than 0, please indicate the cause (s) (more than one possible answer):

- 1- Cataract
 2- Glaucoma
 3- Diabetes
 4- Blindness from birth
 5- Trachoma
 6- River blindness
 7- Unknown cause
 8- Other (specify) :

4.10 Vulnerable individuals living in the household

3.10.1 Number of disabled or chronically ill persons in the household:

3.10.2 Number of young children (2 year old or less) in the household:

3.10.3 Number of individuals more than 65 year old in the household:

3.7.4 Is this a child headed household: YES / NO
Do not ask the question if the answer is obvious

3.7.5 Is this a female headed household: YES / NO
Do not ask the question if the answer is obvious

3.7.6 Is this an elderly headed household: YES / NO
Do not ask the question if the answer is obvious

5. Land plot (s) occupied by the household (all household land holdings, whether plots are affected or not)

5.1 List of land plots in the HIGHLANDS (as opposed to lowlands [table next page] – this table must be filled in before in the field verification, then checked after the field visit to affected plots and measurements)

No.	Affected			Total Surface Area	Location				Current use	Tenure Regime	Name of Owner and User		
	Yes	No	Partial		Lowland / Intermediate Zone / Hill						See codes below	See codes below	Owner – IF DIFFERENT FROM HEAD OF HOUSEHOLD
1	Y	N	P		L	I	Z	H	C				
2	Y	N	P		L	I	Z	H	C				
3	Y	N	P		L	I	Z	H	C				
4	Y	N	P		L	I	Z	H	C				

Control Question: have all household plots been listed in the above table? YES / NO

Use: 1- Household residence 2- Business 3- Agriculture 4- Pasture 5- Burial site 6-Traditional place of worship 7- Abandoned 8- Other (s) (specify)

Tenure: 1- Titled property 2- Non titled property 3- Rental or other occupancy regime other than ownership 4- Other (specify)

6. Structures and crops on an affected land plot occupied by the household (Fill out a B questionnaire for each affected land plot)

7. Livestock

How many heads of livestock do you own:

7.1 Goats 7.2 Sheep 7.3 Cows 7.4 Fowl 7.5 Others and numbers

7.6 Where do goats and sheep graze: Marshland Hills Elsewhere
Circle as applicable

6.7 Where do livestock graze: Zero grazing Lowlands Hills Elsewhere
Circle as applicable

7. Livelihood

7.1 Sources of CASH income for the household

No.	Source of income	Sector	Average Distance (km)	Activity performed on affected territory <small>If yes, please indicate location</small>	Annual Income of the Household		
					Nb.	Member of the Household	Amount
1.	Main source :					Head of the household	
						Spouse	
						Adult child	
						Other:	
2.	Secondary source :					Head of the household	
						Spouse	
						Adult child	
						Other:	
3.	Others source(s) :					Head of the household	
						Spouse	

						Adult child	
						Other:	

Sector:

- 1- Agriculture 2- Animal husbandry 3- Fishing and/or fish-farming 4- Handicraft 5- Construction 6- Property rental
 7- Commerce 8- Civil service 9- Pension 10- Economic support: Family or friends
 11- Economic support: Government or NGO 12- Other (specify)

Place of activity:

- 1- Highlands 2- Lowland

7.2 Sources of NON CASH income for household (if applicable)

Id.	Name of product	Quantity Consumed Per Household			Quantity Exchanged			Quantity Sold			Sale price			Total Value
		in number of units	in kg	in bags	in nber of units	in kg	in bags	in nber of units	in kg	in bags	Per unit	Per kg	Per bag	
1.														
2.														
3.														
4.														
5.														

Product Name:

- 1- Sorghum 2- Corn 3- Sweet potato 4- Potato 5- Sunflower 6- Beans 7- Peanut 8- Peas
 9- Cassava 10- Yam 11- Dasheen 12- Tomato 13- Cabbage 14- Onion 15- Egg-plant 16- Carrot
 17- Pumpkin 18- Cucumber 19- Fodder crop 20- Coffee 21- Cacao 22- Mango 23- Orange 24- Banana
 25- Guava 26- Lemon 27- Avocado 28- Pineapple 29- Tobacco 30- Sugar cane 31- Bricks
 32- Papyrus 33- Fish 34- Handicraft products 35- Other (specify).....

Quantity consumed by the household:

Indicate the quantity of this product consumed by the household in a year. Indicate the number in the appropriate box: units, kg or bags.

Quantity bartered by the household:

Indicate the quantity of this product exchanged against goods and/or services- by the household within a year. Indicate the number in the appropriate box: units, kg or bags.

Quantity sold:

Indicate the quantity of this product sold by the household within a year. Indicate the number in the appropriate box: units, kg OR bags.

Sale price:

Indicate the sale price of this product. Indicate the amount in the appropriate box: Unit, kg OR bags.

Total value:

Indicate the total value of this product for the household including the quantities consumed, exchanged or sold by the household.

7.3 CASH INCOME potentially affected by the project**7.3.1 Affected Agricultural Production**

Number	Name of produce (see codes on previous page)	Unit	Affected production	Unit price on local market	Affected income
1					
2					
3					
4					
5					

7.3.2 Other types of affected household production (Identify income sources and income amounts that are potentially affected by the project)

No.	Member of the household	Income			Affected		
	Name	Type	Sector	Amount/Month	Place	Type	Duration
1.							
2.							
3.							
4.							
5.							
6.							
7.							

Type of income:

- 1- Rent-generated income for an owner of a house on an affected plot of land
- 2- Rent-generated income for an owner of a business on and affected land plot
- 3- Sale-generated income for an owner of an affected business
- 4- Income for an employee of an affected business
- 5- Income generated by the sale of products from an affected land plot
- 6- Employment-generated income for a farm worker operating on an affected plot of land

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- 7- Income generated by the sale of fishing products in an affected area
- 8- Employment-generated for an employer working in the fishing sector in a project-affected area
- 9- Other (specify)

Sector:

- 1- Formal
- 2- Informal

Place of impact:

- 1- Highlands
- 2- Lowlands

Type of impact:

- 1- Partial impact
- 2- Total impact

Duration of impact:

- 1- Temporary impact
- 2- Permanent impact

8 Main expenses of the household (specify amounts based on the reference period of your choice – Week, Month OR Year- in each category)

No.	Main expenses of the household	Amount		
		Choose the reference period :		
		Week	Month	Year
1.	House rental			
2.	Rental of agricultural land			
3.	Agricultural input			
4.	Food			
5.	Drinking water			
6.	Health			
7.	Transport			
8.	Education			
9.	Other (specify):			
10.	Other (specify):			
11.	Other (specify):			

9 Household’s perceptions in relation to the project and to available compensation and resettlement options

9.1 Are you aware of the Mwache Dam Project? 1- Yes 2-No

9.2 What is your main source of information about this project?

- 1- Members of your family
- 2- Neighbors
- 3- National or regional Government
- 4- Local authorities
- 5- Other:

9.3 Are you aware that your community and land you are occupying could be affected by this project? 1- Yes 2-No

9.4 In the event that your place of residence would have to be displaced, what type of compensation would you prefer?

- 1- Resettlement by the project in a new place of residence in the same sector
- 2- Resettlement by the project in a new place of residence in the same district/commune
- 3- Cash compensation for loss of residence

9.5 In the event that your agricultural fields in the highlands would be affected by the project, what type of compensation would you prefer?

- 1- Construction of infrastructure by the project making it possible to maintain farming on current agricultural lands
- 2- Replacement fields on new agricultural land
- 3- Monetary compensation for the value of part of your agricultural plots lost to the project

9.6 In the event that your farming activities in the marshlands would be affected by the project, what type of compensation would you prefer? (More than one possible answer)

- 1- Construction of irrigation infrastructure by the project improving the productivity of your plots located in the highlands
- 2- Access to training programs in various sectors allowing for the acquisition of new knowledge that would increase your employment opportunities
- 3- Other (specify):

9.7 In the event that the land plots you are occupying would be affected by the project, what type of compensation would you prefer for the structures including those where you live?

- 1- Reconstruction of affected structures by the project
- 2- Monetary compensation for parts of your structures affected by the project
- 3- Other (specify):

9.8 In the event that you would be resettled, what type of assistance would you need during resettlement? (More than one possible answer)

- 1- Assistance for the transportation of the household's goods to the resettlement site
- 2- Personalized assistance for specific transportation of one or several members of the household due to their health conditions
- 3- No assistance
- 4- Other (specify):

9.9 How do you think this project could affect your household?

No.	Theme	Impact	
		Type	Explanation

1.	Household incomes		
2.	Household expenses		
3.	Household' food		
4.	Natural resources that will be inundated in the reservoir (medicinal plants, construction materials, handicraft plants etc.)		
5.	Employment of members of the household		
6.	Household children's education		
7.	Household members' health		
8.	Household's access to electricity services		
9.	Household's social network		
10.	Road and/or pedestrian network frequently used by members of the household		
11.	Other (specify):		
12.	Other (specify):		
13.	Other (specify):		

How affected:

- 1- Positive
 2- Negative
 3- Without impact
 4- Don't know

10 Conclusion

10.1 Does the inventory of the household's goods and socioeconomic conditions reflect reality? 1- Yes 2-No

10.2 Did household express complaints the inventory of assets? 1- Yes 2-No

If yes, please describe complaints made:

.....

10.3 Respondent: Head of household 1- Yes 2-No

10.3.1 If no, please indicate respondent's identity number :

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10.4 Signature of the respondent:.....

10.5 Other participant (s) – Government, community or other representatives (Names and signatures):

1-

Representing:

2-

Representing:

10.6 Team of surveyors (Names and signatures):

1-

10.7 Interview:

1- Date of interview:

2-

2- Time of interview:

3-
.....

3- Duration of interview:

10.8 Other comments:

PLOT / STRUCTURES / CROPS QUESTIONNAIRE – Questionnaire B

6. Structures and crops on every project-affected land plot (Fill out a separate sheet for each affected land plot identified in tables 5.1 and 5.2)

6.1 **Sketch of the affected plot.** Identify primary and secondary structures, annual and perennial crops as well as components (mature trees, specifying species, number, etc.). Specify the portions potentially affected by the project if impact on plot is only partial

Household Number: _____	Land Plot: Number _____	Camera number: _____ Pictures number: _____	Overall surface area: _____ m ² Surface area affected: _____ m ² <small>(lower than the demarcation line)</small>	W P T <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> GPS Eastings: <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> GPS Northings: <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

6.2 List and description of structures of the affected land plot

6.2.1 Main structures on the land plot affected by the project (List the main structures used for housing or business activities. Indicate the other structures in the secondary structures table (6.2.2))

# Struc.	Camera Number Pictures Number	Surface area (m ²)	Affected Yes / No	Number of				Nature of			General Condition	Present Use	Tenure Regime	Amount Lease	Owner of the Structure	
				Rooms (total)	Bed- rooms	door s	Win- dows	Floo r	walls	roof					Type	Name (ID nber and address if not member of the household)

Camera and photograph (s) number (s):

Indicate corresponding numbers

Nature of the floor:

- 1- Clay 2- Cement 3- Tiled floor 4- Other (please specify).....

Nature of the walls:

- 1- Mud and wattle 2- Mud and wattle + cement 3- Laterite mud bricks 4- Cooked bricks 5- Cement/concrete blocks
 6- Stones 7- Boards 8- Plastic shifting/Cardboard 9- Other (please specify)

Nature of the roof:

- 1- Corrugated iron sheets 2- Locally-made tile 3- Industrial tile 4- Concrete 5- Cardboard/shifting 6- Straw 7- Other (please specify)

Overall condition:

- 1- new or almost new 2- Good 3- Usable but in poor condition 4- Not usable, but repairable 5- Ruined

Current use: (more than one possible answer)

- 1- Residential (house) 2- Commercial 3- Agricultural 4- Place of worship 5- Other (please specify).....

Tenure regime:

- 1- Ownership 2- Tenancy 3- Occupied without authorization 4- Other (please specify)

Amount of rent:

For rented structure only, indicate amount of monthly rent

Type of property:

- 1- Head of household 2- Spouse 3- Other member of the household 4- Other (please specify)

6.2.2 Secondary structures on the land plot affected by the project (Non residential - such as granaries, sheds, workshops, stables, pigsties, etc...)

No. Struc.	Camera and photos (s) numbers	Type of structure	Surface m2	Materials	Number of Units	Affected	Owner of the Structure	
						Yes / No	Type	Name (ID nber and address if not member of the household)

Structure number:

Continue from numbering of main structures in previous table

Camera and photos (s) numbers:

Indicate corresponding numbers

Type of structure:

1- Latrines 2- Well 3- Shower room 4- Fence 5- Bread oven 6- Grain store 7- Animal shed 8- Small private place of worship
 9- Sand or Gravel Pile 10- Septic tank 11- Other (s) (please specify)

Construction materials for the structure:

1- Mud and wattle 2- Mud and wattle + cement 3- Laterite mud bricks 4- Baked bricks 5- Cement/concrete blocks 6- Stones
 7- Boards 8- Plastic shifting/Card board 9- Other (please specify)

Owner of this structure - Type of relation with the household:

1- Head of household 2- Spouse 3- Other member of the household 4- Other (please specify)

6.3 List and description of crops grown on project-affected land plots

6.3.1 Annual crops grown on project-affected land plots

Species:

1- Sorghum 2- Maize 3- Sweet potato 4- Irish Potato 5- Beans 6- Groundnut 7- Peas 8- Cassava 9- Yam
 10- Millet 11- Tomato 12- Cabbage 13- Onion 14- Egg plant 15- Carrot 16- Pumpkin 17- Cucumber 18- Fodder crop (*Pennisetum, Tripsacum*)
 19- Other (s) (please specify).....

Type of owner:

1- Head of household 2- Spouse 3- Other member of the household 4- Other (please specify)

6.3.2 Perennial crops grown on project-affected land plots

Crop	Age	Number		Average Anticipated Production per year		Use (%)		Crops Owner		
		Total	Affected	Quantity	Value	Consumption	Sale	Type	Name	(ID nber and address if not member of the household)

Species:

- 1- Coffee
 2- Cacao
 3- Mango
 4- Orange
 5- Bananas
 6- Guava
 7- Citron
 8- Avocado
 9- Pineapple
 10- Tobacco
 11- Sugar cane
 12- Other (s) (please specify)

Age:

- 1- Young - non-productive
 2- Young - productive
 3- Mature - productive
 4- Old – non-productive

Type of ownership:

- 1- Head of household
 2- Spouse
 3- Other member of the household
 4- Other (please specify)