PROPOSED KIAMBU WATER SUPPLY PROJECT
KIAMBU COUNTY

ABBREVIATED RESETTLEMENT ACTION PLAN

FINAL REPORT

August 2014

WATER AND SANITATION SERVICES IMPROVEMENT PROJECT - ADDITIONAL FINANCING (WASSIP-AF)
# ABBREVIATED RESETTLEMENT ACTION PLAN (ARAP)

for the

KIAMBU WATER SUPPLY PROJECT

FINAL REPORT

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>EXECUTIVE SUMMARY</td>
<td>i</td>
</tr>
<tr>
<td>1</td>
<td>INTRODUCTION</td>
<td>1-1</td>
</tr>
<tr>
<td>1.1</td>
<td>Background Information</td>
<td>1-1</td>
</tr>
<tr>
<td>1.2</td>
<td>Scope of Resettlement Action Plan</td>
<td>1-1</td>
</tr>
<tr>
<td>1.3</td>
<td>Objectives of the Resettlement Action Plan</td>
<td>1-2</td>
</tr>
<tr>
<td>1.4</td>
<td>Study methodology</td>
<td>1-2</td>
</tr>
<tr>
<td>1.4.1</td>
<td>Detailed methodology</td>
<td>1-3</td>
</tr>
<tr>
<td>1.4.2</td>
<td>Guiding Principles for the RAP</td>
<td>1-4</td>
</tr>
<tr>
<td>2</td>
<td>PROJECT ACTIVITIES</td>
<td>2-1</td>
</tr>
<tr>
<td>2.1</td>
<td>Project Interventions</td>
<td>2-1</td>
</tr>
<tr>
<td>2.1.1</td>
<td>Riara Water Treatment Plant</td>
<td>2-1</td>
</tr>
<tr>
<td>2.1.2</td>
<td>Kamiti Water Treatment Plant</td>
<td>2-1</td>
</tr>
<tr>
<td>2.2</td>
<td>Project Cost</td>
<td>2-2</td>
</tr>
<tr>
<td>3</td>
<td>SOCIO-ECONOMIC BASELINE CONDITIONS</td>
<td>3-1</td>
</tr>
<tr>
<td>3.1</td>
<td>Summary methodology</td>
<td>3-1</td>
</tr>
<tr>
<td>3.2</td>
<td>Results of socio-economic survey</td>
<td>3-1</td>
</tr>
<tr>
<td>3.2.1</td>
<td>Gender of Respondents</td>
<td>3-1</td>
</tr>
<tr>
<td>3.2.2</td>
<td>Age of respondents</td>
<td>3-2</td>
</tr>
<tr>
<td>3.2.3</td>
<td>Religion</td>
<td>3-2</td>
</tr>
<tr>
<td>3.2.4</td>
<td>Education</td>
<td>3-3</td>
</tr>
<tr>
<td>3.2.5</td>
<td>Sources of Livelihood for the affected person</td>
<td>3-3</td>
</tr>
<tr>
<td>3.2.6</td>
<td>Monthly Income</td>
<td>3-4</td>
</tr>
<tr>
<td>3.2.7</td>
<td>Monthly Expenditure</td>
<td>3-5</td>
</tr>
<tr>
<td>3.2.8</td>
<td>Sources of water in the project site</td>
<td>3-5</td>
</tr>
<tr>
<td>3.2.9</td>
<td>Sources of Energy for lighting and cooking</td>
<td>3-6</td>
</tr>
<tr>
<td>3.2.10</td>
<td>Sanitation Facilities in the Area</td>
<td>3-7</td>
</tr>
<tr>
<td>3.2.11</td>
<td>Infrastructure and social amenities affected by the project</td>
<td>3-7</td>
</tr>
<tr>
<td>3.2.12</td>
<td>Community Perception of the Project</td>
<td>3-8</td>
</tr>
<tr>
<td>4</td>
<td>LEGAL AND REGULATORY FRAMEWORK</td>
<td>4-1</td>
</tr>
</tbody>
</table>
4.1 The National Land Policy 4-2
4.2 The Constitution of Kenya 4-3
4.3 Land tenure system in Kenya 4-4
4.3.1 Customary Land Tenure 4-5
4.3.2 Freehold Tenure 4-5
4.3.3 Leasehold Tenure 4-5
4.3.4 Public Tenure 4-5
4.3.5 Public Resources on Public Land 4-6
4.4 Land Act, 2012 4-6
4.4.1 Land Acquisition Process 4-7
4.5 Comparative Analysis of World Bank Op 4.12 & Kenyan Resettlement Laws 4-13
4.6 Comparative Analysis of World Bank OP 4.12 & Kenya’s Requirements Relevant to the Process 4-19

5 PROJECT IMPACTS 5-1
5.1 Minimizing Displacement and Social Impacts 5-1
5.2 Anticipated impacts 5-1
5.2.1 Impact on Land: The Project-Affected Area 5-1
5.2.2 Impacts on People and Livelihoods 5-1
5.2.3 Impact on Public and Community Infrastructure 5-2
5.2.4 Impact on Businesses 5-2
5.2.5 Impact on Cultural Sites 5-2

6 RESETTLEMENT COMPENSATION STRATEGIES 6-1
6.1 Key Principles 6-1
6.2 Conditions of eligibility for compensation 6-1
6.2.1 Cut-Off Date 6-1
6.2.2 Eligibility 6-1
6.3 Entitlements 6-1
6.4 Overview of Compensation Packages for the Main Categories of Project-Affected People 6-5
6.5 Cash Compensation 6-7

7 GRIEVANCE MANAGEMENT & REDRESS 7-1
7.1 Likely Types of Grievances and Disputes 7-1
7.2 Management mechanism 7-1
7.3 National Land Commission Grievance Mechanism 7-2
7.4 Structures for Grievance Management 7-2
7.5 Process Procedures of Lodging Complaints 7-2
7.5.1 Grievance Registration and Monitoring 7-4
7.5.2 Mediation Committee – Amicable Resolution Mechanism

8 MONITORING AND COMPLETION AUDIT

8.1 General Objectives of Monitoring

8.2 Internal Monitoring
8.2.1 Objectives
8.2.2 Indicators and Frequency of Monitoring

8.3 External Monitoring

9 PUBLIC CONSULTATIONS AND DISCLOSURE

9.1 Introduction

9.2 Village Resettlement Committees

9.3 Consultation Concept
9.3.1 Resettlement Planning Stage
9.3.2 Resettlement Implementation Stage

9.4 Disclosure

10 IMPLEMENTATION OF THE RAP

10.1 Liaison with the Government of Kenya
10.1.1 Public Participation with the PAPs
10.1.2 Notification of land resource holders
10.1.3 Agreement on Compensation and Preparation of Contracts
10.1.4 Compensation Payments

10.2 Budget

10.3 Administrative Costs for Implementing the RAP

10.4 Implementation Schedule

11 CONCLUSION

List of Annexes

Annex 1 Minutes of meetings
## LIST OF TABLES

<table>
<thead>
<tr>
<th>Table</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Table 2-1:</td>
<td>Summary of project cost</td>
<td>2-2</td>
</tr>
<tr>
<td>Table 3-1:</td>
<td>Age of respondents</td>
<td>3-2</td>
</tr>
<tr>
<td>Table 3-2:</td>
<td>Income source of the PAPS</td>
<td>3-4</td>
</tr>
<tr>
<td>Table 3-3:</td>
<td>Monthly Income</td>
<td>3-4</td>
</tr>
<tr>
<td>Table 3-4:</td>
<td>Sources of Energy for cooking</td>
<td>3-6</td>
</tr>
<tr>
<td>Table 3-5:</td>
<td>Infrastructure and social amenities affected by the project</td>
<td>3-7</td>
</tr>
<tr>
<td>Table 4-1</td>
<td>Summary of relevant legal statutes applicable to Kiambu Water Supply</td>
<td>4-1</td>
</tr>
<tr>
<td>Table 4-2:</td>
<td>Comparative Analysis of World Bank OP 4.12 and Kenya’s requirements and</td>
<td>4-13</td>
</tr>
<tr>
<td></td>
<td>measures to address gaps</td>
<td></td>
</tr>
<tr>
<td>Table 6-1:</td>
<td>Entitlement Matrix</td>
<td>6-2</td>
</tr>
<tr>
<td>Table 6-2:</td>
<td>Eligibility and Compensation Packages for the Main Categories of Project-</td>
<td>6-5</td>
</tr>
<tr>
<td></td>
<td>Affected People</td>
<td></td>
</tr>
<tr>
<td>Table 10-1:</td>
<td>RAP Implementation budget</td>
<td>10-3</td>
</tr>
<tr>
<td>Table 10-2:</td>
<td>RAP Implementation Schedule – 1st Part – Planning and RAP Finalization.</td>
<td>10-4</td>
</tr>
<tr>
<td>Table 10-3:</td>
<td>RAP Implementation Schedule – 2nd Part – RAP Implementation</td>
<td>10-5</td>
</tr>
</tbody>
</table>
### LIST OF FIGURES

<table>
<thead>
<tr>
<th>Table</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Figure 3-1</td>
<td>Gender of respondent</td>
<td>3-2</td>
</tr>
<tr>
<td>Figure 3-2</td>
<td>Religion of respondents</td>
<td>3-3</td>
</tr>
<tr>
<td>Figure 3-3</td>
<td>Education status of respondents</td>
<td>3-3</td>
</tr>
<tr>
<td>Figure 3-4</td>
<td>Monthly Expenditure</td>
<td>3-5</td>
</tr>
<tr>
<td>Figure 3-5</td>
<td>Current Sources of Water</td>
<td>3-5</td>
</tr>
<tr>
<td>Figure 3-6</td>
<td>Sources of Energy for lighting</td>
<td>3-6</td>
</tr>
<tr>
<td>Figure 3-7</td>
<td>Sanitation facilities in the area</td>
<td>3-7</td>
</tr>
<tr>
<td>Figure 7-1</td>
<td>Grievance / Dispute Management Mechanism</td>
<td>7-5</td>
</tr>
</tbody>
</table>
EXECUTIVE SUMMARY

1. Introduction

Athi Water Services Board is implementing projects financed under Water and Sanitation Services Improvement Project – Additional Financing (WASSIP-AF). The Proposed Kiambu Water Supply project is among the sub-projects expected to benefit from the funding. Kiambu County is fast growing and the rapid growth has resulted into land use change from agricultural to commercial and more specifically to housing development, and this is also aggravated by its closeness to the city of Nairobi. This therefore, heightens the need of investing in supply of water in order to meet the rising demand.

The census results of 2009 outlined Kiambu county population to be a total of 1,623,282 at 2.6% annual growth rate. This translates to 42,206 persons per year. These people are facing constraint water supply leading to most households to use boreholes. The proposed Kiambu Water Supply Project will have two treatments plants at Riara and Rivers Kamiti with design capacity of 4000m3/day each.

The region where the proposed project is to be set up is mostly with commercial establishment which provide housing to expanding metropolitan region of Nairobi. The affected assets are basically farmland which is anticipated to be acquired as easement. Census and valuation conducted revealed that 93 land parcels belonging to individuals will be affected.

Guided by the World Bank Operation policy (OP 4.12) on Involuntary Resettlement and Kenyan Legislations regarding resettlement and acquisitions, an abbreviated Resettlement Action Plan has been prepared. The RAP includes a census survey of affected persons and valuation of assets; description of compensation and other resettlement assistance to be provided; consultations with affected people about acceptable alternatives; institutional responsibility for implementation and procedures for grievance redress; arrangements for monitoring and implementation; and a timetable and budget.

2. Project Area description

Kiambu County is one of the 47 counties of Kenya with a population of 1,623,282 according the 2009 census report from the ministry of Planning and National Development. The County has a total Square Kilometre of 2543.4 km² and the major towns in the county include Kiambu Thika Kikuyu, Limuru, Githunguri and Gatundu with the main tourist attractions being Mau Mau Caves, Chania Falls, Aberdare Forest, fourteen Falls Mugumo Garden and Christina Wangare Gardens.
3. Project Activities

**Riara Water Treatment Plant Coordinates East 253543.80 North 9873654.90 Elevation 1826.00**
- Construction of intake weir and intake chamber to abstract 4000m³/day flow from Riara River
- Raw water main DN 200 steel pipe, 318m long
- 4000m³/day Treatment works consisting of 4 flocculation tanks, 4 units of sedimentation basins, 4 filter units, Chemical Building, Utility Building, 48 cubic meters steel elevated pressed steel backwash tank, backwash pump house and installation of backwash pumping units, and 1250 cubic meters reinforced concrete clear water tank;
- Treated water Gravity main DN 250 steel pipe, 2.4km long and DN 200 steel pipe, 3.1km from treatment plant to connection with existing distribution system.

**Kamiti Water Treatment Plant GPS Coordinates East 250645.15 North 9877033.71 Elevation 1920.21**
- Construction of intake weir and intake chamber to abstract 4000m³/day flow from Gachoruba River
- Raw water main DN 200 steel pipe, 383m long
- 4000m³/day Treatment works consisting of 4 flocculation tanks, 4 units of sedimentation basins, 4 filter units, Chemical Building, Utility Building, 48 cubic meters steel elevated pressed steel backwash tank, backwash pump house and installation of backwash pumping units, and 150 cubic meters masonry clear water tank and 150 cubic meters masonry break pressure tank;
- Gravity main DN 200 steel pipe, 7.2km long and DN 250 steel pipe, 3.6km long from treatment plant to ground tank in Kiambu

4. Project Impacts to Peoples Livelihood

The project components associated with impact to people’s properties are water pipelines, intake works and the sites for the treatment plants. Most of the affected properties identified were food crops, cash crops and trees. Majority of the pipelines will be laid on the riparian area and road reserves. Where the pipeline will be laid on peoples’ land, the project affected persons will be compensated adequately for the easement.

Land for the treatment plants will be acquired from individual persons through willing buyer willing seller arrangement. The estimated size of the land for each of the treatment plants is 2acres.
The pipelines under the project are estimated to be 17km to be laid along the river riparian, road reserves and within individual land. The RAP report has estimated the properties to be affected along Riara Pipeline and Kamiti Pipeline as summarized in Table 1 below.

5. Compensation Budget

Table 1: Summary of Budget

<table>
<thead>
<tr>
<th>S/NO</th>
<th>Area</th>
<th>Amount</th>
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<tbody>
<tr>
<td>1</td>
<td>Riara Line Large Scale Land Owners</td>
<td>120,399,380.00</td>
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<td>2</td>
<td>Riara Line Small Scale Land Owners</td>
<td>7,926,500.00</td>
</tr>
<tr>
<td>3</td>
<td>Kamiti Line Small Scale Land Owners</td>
<td>26,101,148.29</td>
</tr>
<tr>
<td>4</td>
<td>Kamiti Line Large Scale Land Owners</td>
<td>40,602,750.00</td>
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<tr>
<td></td>
<td>Total</td>
<td>195,029,778.29</td>
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</table>

6. Category of impact

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

- Project affected persons with land only (land owners)
- Project affected persons with land, crops and trees (land, trees and crops)

7. Minimizing resettlement and losses

Efforts have been made to align the design of water lines within the riparian land along the rivers and road reserves as much as possible. This is in effort to avoid or minimize the impact to people’s properties and therefore resettlement and disturbances arising from land acquisition in line with the World Bank OP 4.12. All those that shall be affected by the project will be fully compensated before project commencement as required by OP 4.12.

8. The Census, Cut-off date and the Socio - Economic study

The valuation census and the socio-economic survey of PAPs were undertaken between June and July 2013 including consultative meetings with different categories of PAPs.

The entitlement cut-off date was 12th July 2013 when census was concluded and the time when the assessment of persons and their property in the area was carried out for the preparation of this RAP.

The socio-economic survey was done using a semi-structured household questionnaire structures to gather the baseline data of the PAPs on;

- Incomes and Expenditures,
- Occupational and Livelihood pattern
• water and sanitation,
• Education
• Health

The census survey and socio-economic study findings revealed the following:

• The project affected persons households are approximately 93 households which are equivalent to small plots where the easement for the pipeline, intake areas and treatment plant will be acquired. A total of 66 households were enumerated.
• Majority of the PAPs enumerated have undergone primary education at 93.9% while 87.9% percent have undergone through the secondary education only 6% have went through college and tertiary colleges.
• The main livelihood sources in the project area include farming (food and cash crops) and small scale trading.
• The main source of water used by the respondents at 42.42% is river which is untreated water, this is followed by wells at 19.7% and boreholes at 13.6%. Piped water is at 6%.
• The most used sanitation facility with frequency of 48 that is 72.7% is pit latrines this is followed by frequency of 2 each that is 3.03% of flash toilets which are connected to a septic tank and connected to main sewer.
• The PAPs use electricity, kerosene and firewood as the most popular sources of energy for lighting and cooking respectively

9. Resettlement Plan and Entitlements

The process and procedures of easement acquisition for the proposed Kiambu Water Project will be principally governed by World Bank Involuntary Resettlement Policy (OP 4.12) and Kenya land laws including; Land Act 2012, Land Registration Act 2012, National Land Commission Act 2012 as well as the Kenyan Constitution 2010.

10. Valuation and Compensation Methodology

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, full replacement cost approach was used.

All affected persons irrespective of their status or whether they have formal titles, legal rights or not, will be eligible for some kind of assistance if they occupied the land before the entitlement cut-off date.
11. Grievance Management mechanisms

Grievance management forms a critical part of any resettlement and compensation program. In this project, grievance management will be handled by a redress committee which includes representatives of the community members, Athi Water Services Board, local administration and government institutions representatives.

This RAP provides for a formalized grievance redress mechanism to help reduce any complaints and grievances of the PAPs and to enhance the acceptance of compensation and resettlement program through people participation and support.

In the event that disputes are un-resolvable via the committees, then PAPs will seek resolution form the National and Tribunal, the high court or any other relevant courts in Kenya with jurisdiction on the same.

12. Cost estimates/Valuation of Assets

Based on the Land Act and World Bank OP.4.12, the RAP team came up with cost estimates for the RAP under Proposed Kiambu Water Project. The cost for the RAP budget was based on full replacement cost which include a 15% disturbance and restoration allowance. The relocation assistance will cater for economic and social as well as physical disturbance caused to a PAP. The costs add up to KES 256,165,722.29 which is approximately USD 3,013,714.38 (1USD=KES 85).

13. Responsibilities

Overall responsibility for implementation and monitoring of the RAP including the Compensation Plan rests with Athi Water Services Board which houses the Project Implementing Unit. The team of PIU at the project level includes a Civil Engineer, Sociologists, Environmentalist, Surveyor and Land Economist. They will also be backed up by a supervision consultant who will have the same experts all who will be responsible for implementing the RAP including monitoring.

The tasks of the PIU will include among others:

a. Civil Engineers- follow-up on the design, route alignment and construction supervision
b. Environmentalist - follow-up on implementation of the environmental and social management plan (ESMP)
c. Sociologist - follow-up on implementation of RAP as well as social issues within the project
d. Surveyors – confirm the water pipeline routes based on new alignments
e. Land economist – re-confirm and values assets along the easement route.
14. Monitoring and Reporting

PIU will:

- Track implementation of each item of the RAP, and report on progress as part of the agreed monthly reporting. Quarterly RAP implementation reports will include feedback from PAPs collected through meetings with the Community Forum.
- Provide quarterly reports to local stakeholders on implementation of the RAP as part of the Public Consultation and Disclosure Program.
- Local CBOs and NGOs active in the project area will also undertake monitoring, evaluation and reporting.
- Provide a monthly update on the number of grievances encountered and measures taken to address them.

15. Conclusion

This study established that the project would affect the livelihoods and welfare of a total of 93 households within Kiambaa, Ndumberi, Kanunga, Githunguri, Githiga and Ikinu areas. This therefore necessitated the preparation of the RAP to mitigate the impacts of resettlement.

The study proposes that with collaboration from AWSB, National Government Administration, Kiambu County Government staff and PAP representatives, the RAP will be adequately implemented.
1 INTRODUCTION

1.1 Background Information

The Government of Kenya’s (GOK) National Water Policy (1999) envisages 100% access to safe water for the country’s population by 2010. The MDG envisages access to safe water and improved sanitation of 70% and 93% respectively by 2015. Current coverage figures are 49% and 86% respectively. During the 1980’s and 1990’s Kenya made large investments in water supply and sewerage (WSS) production and treatment capacities, but these did not result in efficient and sustainable service distribution.

Athi Water Services Board is implementing projects financed under Water and Sanitation Services Improvement Project Additional Financing (WASSIP-AF). The proposed Kiambu Water Supply project is among the sub-projects expected to benefit from the funding.

The project will involve laying of approximately 17km water pipeline both raw water and clear water pipeline to supply Kiambu County which is basically Kiambaa, Nduumberi, Kanunga, Githunguri, Githiga and Ikinu.

The proposed Kiambu Water Supply Project will actually affect people’s farmland specifically the route for the raw and clear water pipeline and sites for the treatment plants and intake weirs. Therefore there was need to undertake an abbreviated Resettlement Action Plan for the project as required by the World Bank Operation Policy OP 4.12 on Involuntary Resettlement.

The World Bank Operation policy (OP 4.12) on Involuntary Resettlement requires that a resettlement Action plan is prepared which documents cases of livelihoods interruptions which are likely to be affected by the project, propose alternative of minimizing interruptions to peoples properties and proposed adequate compensation at a full resettlement cost to the affected persons.

1.2 Scope of Resettlement Action Plan

This Resettlement Action Plan (RAP) has been prepared for submittal within the framework of the Water and Sanitation Services Improvement Project- Additional Financing (WASSIP - AF) Resettlement Policy Framework (RPF) and Environmental management and Social Framework (EMSF), which include the social documentation below;
• This RAP which describes the measures that will be taken to address the loss of farmland that will be result due to acquisition of easement for Riara and Kamiti water pipelines.
• A socio-Economic Baseline, which provides a detailed description of the social-economic situation prevailing in the Project area.
• Census survey of affected persons and valuation of assets;
• Description of compensation and other resettlement assistance to be provided;
• Consultations with affected people about acceptable alternatives;
• Institutional responsibility for implementation
• Procedures for grievance redress;
• Arrangements for monitoring and implementation;
• Timetable and budget.

1.3 Objectives of the Resettlement Action Plan

Resettlement Action Plan is prepared to ensure that the livelihood of the persons impacted by the project is maintained or made better and that the project does not impoverish the persons. Main objectives of preparing of preparing Resettlement Action Plan are:

a. To identify the Project Affected Persons and parcels of land (pipeline corridor) that will be acquired during construction of the project.

b. To develop compensation framework that will propose compensation at full replacement cost to persons whose land (pipeline corridor) will be acquired as easement to the project.

The study involved a socio economic survey of the persons affected by the project which helped to assert economic situation of the project affected persons before implementation of the project. The study also involved a comprehensive community and stakeholder participation with the affected persons to ensure that their concerns are included in the report as well as the valuation for easement.

1.4 Study methodology

The study was organized to involve communities likely to be affected by the project as much as possible, this was in an effort to develop a report that is comprehensive and inclusive of the communities’ views, and this was achieved through organising meetings with local leadership, government institutions and local communities as well as interviews and questionnaire administration to the project affected persons.
1.4.1 Detailed methodology

a. 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.

b. Identifying all categories and number of project affected persons (PAPs) regardless of land ownership status.

c. Taking an inventory of the affected assets and livelihood activities within the Riara and Kamiti Pipeline route.

d. Preparing the inventory list of the potential project affected persons. This list include land owners and farmers, vulnerable groups, locations on the map

e. 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, water and sanitation, occupational and livelihood pattern, use of resources, social organization, etc.

f. 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.

g. 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.

h. 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.

i. 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.

j. Costing and budgeting for all RAP related activities including among others, easement acquisition costs, livelihood restoration costs of the PAPs, assistance to vulnerable groups, etc.

k. 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.

l. 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.

1.4.2 Guiding Principles for the RAP

The RAP has been prepared in full compliance with the RPF prepared for the WASSIP-AF which has the following principals as outlined in the RPF.

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

ii. 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.

iii. PAPs will be meaningfully consulted and will participate in planning and implementing of the project.

iv. 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.

v. 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.

vi. 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.

vii. 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.

viii. 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.

ix. 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.

x. The compensation of the PAPs must be completed prior to the implementation of the project.
2 PROJECT ACTIVITIES

2.1 Project Interventions

2.1.1 Riara Water Treatment Plant

This is at Coordinates East 253543.80 North 9873654.90 Elevation 1826.00 and consists of:

- Construction of intake weir and intake chamber to abstract 4000m³/day flow from Riara River
- Raw water main DN 200 steel pipe, 318m long
- 4000m³/day Treatment works consisting of 4 flocculation tanks, 4 units of sedimentation basins, 4 filter units, Chemical Building, Utility Building, 48 cubic meters steel elevated pressed steel backwash tank, backwash pump house and installation of backwash pumping units, and 1250 cubic meters reinforced concrete clear water tank;
- Treated water Gravity main DN 250 steel pipe, 2.4km long and DN 200 steel pipe, 3.1km from treatment plant to connection with existing distribution system.

2.1.2 Kamiti Water Treatment Plant

This is at GPS Coordinates East 250645.15 North 9877033.71 Elevation 1920.21 and consists of:

- Construction of intake weir and intake chamber to abstract 4000m³/day flow from Gachoruba River
- Raw water main DN 200 steel pipe, 383m long
- 4000m³/day Treatment works consisting of 4 flocculation tanks, 4 units of sedimentation basins, 4 filter units, Chemical Building, Utility Building, 48 cubic meters steel elevated pressed steel backwash tank, backwash pump house and installation of backwash pumping units, and 150 cubic meters masonry clear water tank and 150 cubic meters masonry break pressure tank;
- Gravity main DN 200 steel pipe, 7.2km long and DN 250 steel pipe, 3.6km long from treatment plant to ground tank in Kiambu.
2.2 Project Cost

From the detailed design of the project, the proposed intervention for Kiambu Water Supply is envisaged to cost KES 518,637,908 equivalent to USD 6,101,622.50 (1USD=KES 85). The breakdown is as shown in Table 2-1.

Table 2-1: Summary of project cost

<table>
<thead>
<tr>
<th>Description</th>
<th>Bill amount (KShs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preliminary and General</td>
<td>55,334,910.00</td>
</tr>
<tr>
<td>Summary Sheet - Riara</td>
<td>225,796,721.04</td>
</tr>
<tr>
<td>Summary Sheet - Kamiti</td>
<td>190,357,376.40</td>
</tr>
<tr>
<td><strong>Bill of Quantities Total</strong></td>
<td>471,489,007</td>
</tr>
<tr>
<td>Contingencies 10% of Bill of Quantity Total</td>
<td>47,148,901</td>
</tr>
<tr>
<td><strong>Total Carried to Form of Bid</strong></td>
<td>518,637,908</td>
</tr>
</tbody>
</table>
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 including the persons likely to be affected by the project prior to the project investment. The project activities will not in any way displace people from their homes; only portions of their farmland will be acquired to provide the required easement for water pipeline.

The socio economic status of the people is likely to be slightly disrupted during the construction period. However proper compensation at full replacement cost has been proposed in this report. Eventually the persons will directly benefit from the project due to availability of reliable safe water supply.

3.1 Summary methodology

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

Establish a robust characterization of general pre-project socio-economic conditions against which future changes can be measured, socio economic characteristics that was considered education, water and sanitation, health, sources of livelihood and housing.

The survey team employed the following methods:

- Quantitative household survey
- Focus Group Discussions
- Key-Informant Interviews

3.2 Results of socio-economic survey

3.2.1 Gender of Respondents

Out of the total respondent of 66, more men were interviewed than women at a rate of 71% of men and 29% women. This means therefore that most decisions rest with men within the project area.
3.2.2 Age of respondents

The largest percentage of respondents falls within the age bracket of 51-60, 61-70 and 71 years and above. This means that approximately 69.6% of the total population of the PAPs are 51 years and above. This is the old generation which means that they are yet to surrender the land to their children.

**Table 3-1: Age of respondents**

<table>
<thead>
<tr>
<th>Age</th>
<th>Tally</th>
<th>% Proportion</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-10</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>20-30</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>21-30</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>31-40</td>
<td>5</td>
<td>7.7</td>
</tr>
<tr>
<td>41-50</td>
<td>13</td>
<td>19.7</td>
</tr>
<tr>
<td>51-60</td>
<td>15</td>
<td>22.7</td>
</tr>
<tr>
<td>61-70</td>
<td>15</td>
<td>22.7</td>
</tr>
<tr>
<td>71 and above</td>
<td>16</td>
<td>24.2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>66</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

3.2.3 Religion

Majority of the PAPs are Christians as indicated in Figure 3-2 below who stand at 95.5%. They belong to the various denominations found in the project area. Only 3% are Muslims while 1.5% do not belong to any religion.
3.2.4 Education

Majority of the respondents have attained primary level of education at 93.9% and only 6.1% having university education. This means that majority of the population can provide unskilled labour in the construction phase if employment will be available to the local communities.

3.2.5 Sources of Livelihood for the affected person

The study revealed that the PAPs have multiple sources of income. The main source of income for the respondents at 90.9% is farming; this is followed by a 28.8% of self-employment this includes small scale trading of food crops and farm produce. The
least source of income by the respondents is employment at 16.7%. The farming activities can be enhanced by encouraging people to harvest rain water by guttering homes and construction of surface small earth dams.

The water project will therefore improve and enhance the living standards of this community by ensuring that they access clean water.

Table 3-2: Income source of the PAPS

<table>
<thead>
<tr>
<th>Livelihood Sources</th>
<th>Tally</th>
<th>% Proportion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Farming</td>
<td>60</td>
<td>90.9</td>
</tr>
<tr>
<td>Self employed</td>
<td>19</td>
<td>28.8</td>
</tr>
<tr>
<td>Employed</td>
<td>11</td>
<td>16.7</td>
</tr>
<tr>
<td>Casual worker</td>
<td>16</td>
<td>24.2</td>
</tr>
<tr>
<td>Other</td>
<td>4</td>
<td>6.1</td>
</tr>
</tbody>
</table>

3.2.6 Monthly Income

Most male respondents with a count of 18 get a monthly income of (Ksh 0-10,000) monthly income bracket, followed by a count of 10 male respondents who get a monthly income of (Ksh 11,000-20,000) monthly income bracket. Whereas most female with a count of 2 each get a monthly income of (Ksh 0-10,000, 11,00-20,000, 21,000-30000 and over 100,000) monthly income bracket. The rest earn a monthly income of between Ksh 31,000 and 80,000.

With guaranteed reliable safe and adequate water supply, the PAPs will spent less on water than they are currently spending hence increase in the per capita income.

Table 3-3: Monthly Income

<table>
<thead>
<tr>
<th>Income</th>
<th>Male Tally</th>
<th>% Proportion</th>
<th>Female Tally</th>
<th>% Proportion</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-10000</td>
<td>18</td>
<td>27</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>11000-20000</td>
<td>10</td>
<td>15.2</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>21000-30000</td>
<td>4</td>
<td>6.1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>31000-40000</td>
<td>6</td>
<td>9.1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>41000-50000</td>
<td>2</td>
<td>3</td>
<td>1</td>
<td>1.5</td>
</tr>
<tr>
<td>51000-60000</td>
<td>3</td>
<td>4.6</td>
<td>1</td>
<td>1.5</td>
</tr>
<tr>
<td>61000-70000</td>
<td>3</td>
<td>4.6</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>71000-80000</td>
<td>1</td>
<td>1.5</td>
<td>1</td>
<td>1.5</td>
</tr>
<tr>
<td>81000-99000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Over 100000</td>
<td>3</td>
<td>4.6</td>
<td>2</td>
<td>3</td>
</tr>
</tbody>
</table>
3.2.7 Monthly Expenditure

From the assessment, a lot of income is spent on food at 35% followed by education at 28% then health at 18% as shown in Figure 3-4.

![Monthly Expenditure](image)

Figure 3-4: Monthly Expenditure

3.2.8 Sources of water in the project site

The main source of water used by the respondents at 42.42% is river which is untreated water, this is followed by wells at 19.7% and boreholes at 13.6%. Piped water is at 6% of which the taps run dry in most days forcing the respondents to fetch water from the river sources. Therefore there is need for the Kiambu Water Supply project that will provide access to clean water supply.

![Current Sources of Water](image)

Figure 3-5: Current Sources of Water
3.2.9 Sources of Energy for lighting and cooking

The main source of energy for lighting at a percentage of 75.8% used by most of the respondent is electricity which is supplied from the national grid followed by kerosene at 24.2% which is bought from local venders. The least used source of energy for lighting by the respondents at 1.5% is solar energy while generators are not used completely.

![Figure 3-6: Sources of Energy for lighting](image)

The main source of Energy for cooking available is firewood with a percentage of 86.4% which is locally available then electricity and kerosene at 6.1% each and finally biogas at 3% which is the least source of energy used by the respondents.

<table>
<thead>
<tr>
<th>Source</th>
<th>Tally</th>
<th>% Proportion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electricity</td>
<td>4</td>
<td>6.1</td>
</tr>
<tr>
<td>Kerosene</td>
<td>4</td>
<td>6.1</td>
</tr>
<tr>
<td>Firewood</td>
<td>57</td>
<td>86.4</td>
</tr>
<tr>
<td>Biogas</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Others</td>
<td>6</td>
<td>9.1</td>
</tr>
</tbody>
</table>

From the analysis, its evident that the PAPs use electricity, kerosene and firewood as the most popular sources of energy for lighting and cooking respectively, this implies that more money is spent as the energy alternative above are expensive, this leaves the PAPs with limited resources to use for water and other family needs. The project will ease the economic burden currently facing the PAPs by assuring them adequate and safe and clean water.
3.2.10 Sanitation Facilities in the Area

The most used sanitation facility with frequency of 48 that is 72.7% is pit latrines this is followed by frequency of 2 each that is 3.03% of flash toilets which are connected to a septic tank and connected to main sewer as shown in Figure 3-7.

![Sanitation facilities in the area](image)

**Figure 3-7: Sanitation facilities in the area**

3.2.11 Infrastructure and social amenities affected by the project

The project will affect highly crops and trees at 16.6% this is followed by interference with footpaths (10.6%), roads at 4.55% while roads and bridges are each 3.03% respectively. The works contract has a bill item specifically for reinstatement of the site to a better condition.

This shows that the project will moderately affect the PAPS source of income therefore need for adequate compensation prior to implementation of the project at full replacement cost.

<table>
<thead>
<tr>
<th>Tally</th>
<th>% Proportion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interference with quarry</td>
<td>2</td>
</tr>
<tr>
<td>Interference with roads</td>
<td>3</td>
</tr>
<tr>
<td>Interference with crops/trees</td>
<td>11</td>
</tr>
<tr>
<td>Interference with foot paths</td>
<td>7</td>
</tr>
<tr>
<td>Interference with bridges</td>
<td>2</td>
</tr>
</tbody>
</table>

Table 3-5: Infrastructure and social amenities affected by the project
3.2.12 Community Perception of the Project

All the households agreed to have the construction of Kiambu water supply. They view the construction as an opportunity for job creation, provision of clean water supply, infrastructure; improve the living standards of the community and better living conditions, and easy access to clean water supply. However the main concern of the persons affected is that they should be adequately compensated before the project commences.
4  LEGAL AND REGULATORY FRAMEWORK

The chapter sets out the legal operating environment for acquisition of land as anticipated in the implementation of the Kiambu Water Supply 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 4-1  Summary of relevant legal statutes applicable to Kiambu Water Supply

<table>
<thead>
<tr>
<th>Legal Framework</th>
<th>Functional Relationship to Resettlement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Constitution of Kenya 2010</td>
<td>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.</td>
</tr>
<tr>
<td>The Land Act 2012 Laws of Kenya</td>
<td>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.</td>
</tr>
<tr>
<td>Land Registration Act, 2012</td>
<td>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.</td>
</tr>
</tbody>
</table>
4.1 The National Land Policy

The National Land Policy ("NLP" or "Policy")\(^1\) 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.\(^2\) 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.”\(^3\) Under the current Constitution,\(^4\) 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.\(^5\) Similarly, the NLP empowers the National Land Commission to compulsorily acquire land.\(^6\)

According to the NLP, the exercise of compulsory acquisition in the past has been conducted with abuses and irregularities.\(^7\) 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);\(^8\)
- To harmonize the framework for compulsory acquisition to avoid overlapping mandates;\(^9\)


\(^2\) 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.

\(^3\) Sessional Paper No. 3 of 2009 on National Land Policy, § 45.

\(^4\) The Constitution of Kenya, 1963, was replaced in 2010.

\(^5\) Land Act, § 6, 2012.

\(^6\) Sessional Paper No. 3 of 2009 on National Land Policy. §233(d).

\(^7\) Id. at Chapter 3.2.1.1, article. 46.

\(^8\) Id. at Chapter 3.2.1.1, article. 47(a).

\(^9\) 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
• To establish compulsory acquisition criteria, processes and procedures that are efficient, transparent and accountable;\textsuperscript{10}
• To institute legal and administrative mechanisms for the exercise of the power of compulsory acquisition by the State through the National Land Commission;\textsuperscript{11} 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.\textsuperscript{12}

4.2 The Constitution of Kenya

The Constitution of Kenya, 2010,\textsuperscript{13} protects the sanctity of private property rights and states that no property can be compulsorily acquired by the Government except in accordance with law.\textsuperscript{14} 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.”\textsuperscript{15}

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.\textsuperscript{16} 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.

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, \S 3.)
\textsuperscript{10} Sessional Paper No. 3 of 2009 on National Land Policy, Chapter 3.2.1.1, \S 47(c).
\textsuperscript{11} Id. at Chapter 3.2.1.1, p. 47(d).
\textsuperscript{12} Id. at Chapter 3.2.1.1, \S 47(c).
\textsuperscript{14} Constitution of Kenya, art. 40.
\textsuperscript{15} Id.
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. 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.

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

4.3 Land tenure system in Kenya

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

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17 Constitution of Kenya. Id. at art. 40(5).
18 Constitution of Kenya. Id. at art. 40(3).
19 Id. at art. 60.
20 Id. at art. 60(2).
21 Id. at art. 61.
22 Id. at art. 63(d)(i).
23 Id. at art. 62(g).
24 Id. at arts. 62(3), 67(2)s (a).
25 Id. at art. 63(d)(i) and (ii).
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: First, individuals or groups by virtue of their membership in some social unit of production or political community have guaranteed rights of access to land and other natural resources. Individuals or families thus claim property rights by virtue of their affiliation to the group.

4.3.2 Freehold Tenure

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

4.3.3 Leasehold Tenure

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

4.3.4 Public Tenure

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

- To identify public land, prepare and keep a database of all public land, which shall be geo-referenced and authenticated by the statutory body responsible for survey;
- Evaluate all parcels of public land based on land capability classification, land resources mapping consideration, overall potential for use, and resource evaluation data for land use planning; and
- Acquire land for public purposes
- Solve land disputes and deal with historical land injustices
- Share data with the public and relevant institutions in order to discharge their respective functions and powers under this Act; or
- May require the land to be used for specified purposes and subject to such conditions, covenants, encumbrances or reservations as are specified in the relevant order or other instrument\(^\text{26}\).

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

### 4.4 Land Act, 2012

The Land Act \(^\text{27}\) (“LA”) is the Kenya’s framework legislation regulating compulsory acquisition of land (i.e. land, houses, easements etc.). The LA was adopted on 2\(^\text{nd}\) May 2012 and provides for sustainable administration and management of land and land based resources including compulsory acquisition.

\(^{26}\) National Land Commission Act, 2012, Section II, article 5(1)

\(^{27}\) Land Act, 2012.
4.4.1 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 defence, 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. Water and sewage 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. It is important to note that if the NLC is constituted prior to conclusion of land acquisition, it could prescribe criteria and guidelines necessitating variations or revisions to the current RAP. Similar, the Commission has powers to reject a request of an acquiring authority, to undertake an acquisition if it establishes that the request does not meet the requirements prescribed.

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.

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.28 It will then serve a copy of the notice to every person interested in the land and deposit the same copy to the Registrar29 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.30 NLC shall ensure that the provisions are included in her notice.

29 Land Act, 2012, 107
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.31

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.32 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.

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 compensation33 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.


31 Land Act, 2012 (112).
32 Id. at article 112.
33 Schedule explaining just compensation has not been assessed and released by NLC. The Land Act 2012 say NLC should develop the schedule.
**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.\(^3\) 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.\(^3\)

**Matters not to be considered in determining compensation:**

- The degree of urgency, which has led to the acquisition.
- Any disinclination of the person’s interest to part with the land.
- Damages sustained by the claimant, which will not represent a good cause of action.
- Damages, which are likely to be caused to the land after the publication of the acquisition notice or as a consequence of the future, land use.
- Increased land value accrued by its future use.
- Any development at the time of acquisition notice, unless these improvements were necessary for maintaining the land.\(^3\)

**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

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\(^{3}\) *Id.* at article 112 and article 111.

\(^{3}\) Schedule 2 governing compensation 2000.

\(^{3}\) Schedule 3 governing compensation for compulsory acquisition.
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.\textsuperscript{37} The law could be interpreted that any dispossessed person shall be awarded the market value of the land.\textsuperscript{38} 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.\textsuperscript{39} 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.\textsuperscript{40} 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.\textsuperscript{41} Section 119 provides a different condition and states that the NLC “as soon as practicable” will pay such compensation.\textsuperscript{42} 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.\textsuperscript{43}

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.

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

Once first offer payment has been awarded, the NLC will serves notice to landowners in the property indicating the date the Government will take possession. Upon taking possession of land, the commission shall ensure payment of just compensation in full. When this has been done, NLC removes the ownership of private land from the register of private ownership and the land is vested in the national or county Government as public land free from any encumbrances.\textsuperscript{44}

\textsuperscript{37} Land Act, 117.

\textsuperscript{38} Land Act, Schedule

\textsuperscript{39} Land Act, 115

\textsuperscript{40} Land Act, 115

\textsuperscript{41} Land Act, This language reflects the language of the Kenya Constitution, 1963.

\textsuperscript{42} Land Act, 119

\textsuperscript{43} Constitution of Kenya, article 162

\textsuperscript{44} Land Act, 115 and 116
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 Court. 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 alternative dispute resolution (ADR), including traditional dispute resolution mechanisms.

Any person whose land has been compulsorily acquired may petition the Environment and Land Court for redress with respect to:
- The determination of such person’s right over the land;
- The amount offered in compensation; and
- The amount offered in compensation for damages for temporary dispossession in the case of the Government’s withdrawal of its acquisition of the land.\(^{46}\)

\(^{45}\) Land Act 2012, Section128
\(^{46}\) Land Acquisition Act. at article 29(7).
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.\textsuperscript{47}

\textsuperscript{47} Land Acquisition Act at article 43.
4.5 Comparative Analysis of World Bank Op 4.12 & Kenyan Resettlement Laws

Table 4-2: Comparative Analysis of World Bank OP 4.12 and Kenya’s requirements and measures to address gaps

<table>
<thead>
<tr>
<th>GENERAL REQUIREMENTS</th>
<th>Kenyan Legislation</th>
<th>Comparison</th>
<th>Recommendation to Address Gap</th>
</tr>
</thead>
<tbody>
<tr>
<td>World Bank OP4.12 has overall policy objectives, requiring that:</td>
<td>1. According to Kenyan Legislation, involuntary resettlement may occur as a result of projects implemented in public interest.</td>
<td>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.</td>
<td>1. RAP, ensure that resettlement issues are considered at the design stage of the project in order to avoid/ minimize resettlement.</td>
</tr>
<tr>
<td>1. Involuntary resettlement should be avoided wherever possible, or minimized, exploring all alternatives.</td>
<td>2. The Land Act, 2012 Act outlines procedures for sensitizing the affected population to the project and for consultation on implications and grievance</td>
<td>2. Same as the World Bank</td>
<td>Implement World Bank OP 4.12 policy - displaced should be assisted in improving their livelihood to pre-project status.</td>
</tr>
<tr>
<td>2. Resettlement programs should be sustainable, include meaningful consultation with affected parties, and provide benefits to the affected parties.</td>
<td>3. Just and fair compensation as</td>
<td></td>
<td></td>
</tr>
<tr>
<td>PROCESS REQUIREMENTS</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>----------------------</td>
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<td></td>
</tr>
<tr>
<td><strong>Consultation:</strong> Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.</td>
<td>The Land Act outlines procedures for consultation and management procedures.</td>
<td>Same as World Bank</td>
<td>Implement consultation procedures as outlined in both Kenyan legislation and World Bank.</td>
</tr>
<tr>
<td><strong>Grievance:</strong> For physical resettlement, appropriate and accessible grievance mechanism will be established.</td>
<td>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.</td>
<td>Kenyan legislation meets OP4.12 requirements.</td>
<td>N/A</td>
</tr>
</tbody>
</table>
**Eligibility Criteria**

*Defined as:*

(a) those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country);

(b) those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets—provided that such claims are recognized under the laws of the country or become recognized through a process identified in the resettlement plan (see Annex 10 A, para. 7(f)); and

(c) those who have no recognizable legal right or claim to the land they are occupying.

*To determine eligibility:*

Carry out resettlement census. Cut off date for eligibility is the day when the census begins.

<table>
<thead>
<tr>
<th>The Land Act 2012 provides that written and unwritten official or customary land rights are recognized as valid land right. The Law provides that people eligible for compensation are those holding land tenure rights. Land Act also recognizes those who have interest or some claim in the land such pastoralist or who use the land for their livelihood. The constitution recognizes ‘occupants of land’ who do not have title and who the state has an obligation to pay in good faith when compulsory acquisition is made.</th>
<th>Kenya’s Land Law defines eligibility as both formal (legal) and informal (customary) owners of expropriated land. However, it does not specifically recognize all users of the land to be compensated. The constitution of Kenya on the other hand recognizes ‘occupants of land’ who do not have title and who the state has an obligation to pay in good faith when compulsory acquisition is made.</th>
<th>Ensure ALL users (including illegal squatters, laborers, rights of access) of affected lands are included in the census survey or are paid</th>
</tr>
</thead>
<tbody>
<tr>
<td>Implement cut-off procedures as outlined in the RPF and Kenyan Law</td>
<td>Same as World Bank</td>
<td></td>
</tr>
<tr>
<td>Measures: Preference should be given to land based resettlement strategies for displaced persons whose livelihoods are land-based. Cash based compensation should only be made where (a) land taken for the project is a small fraction of the affected asset and the residual is economically viable; (b) active markets for lost assets exist and there is sufficient supply of land and housing; or (c) livelihoods are not land-based. World Bank OP4.12 Article 6(a) requires that displaced persons are provided with prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project. If physical relocation is an impact, displaced persons must be provided with assistance during relocation and residential housing, housing sites and/or agricultural sites to at least equivalent standards as the previous site. Replacement cost does not take depreciation into account. In Legislation provides for land for land compensation but the Land Act 2012 does not state whether preference should be given to land for land compensation. Land Act 2012 appears to prefer mode of compensation by the Government to the affected population. Land Act talks of prompt, just compensation before the acquisition of land. However, interpretation of just compensation is yet to be clearly outlined through a specific</td>
<td>Land Act 2012 provides for census through NLC inspection and valuation process</td>
<td>Land for Land provided for in the Land Act based on agreement by the PAP. Cash based compensation seems to be the preferred mode of awarding compensation to the affected population by Government of Kenya. ‘Just compensation’ as stipulated in the Land Act not yet specifically defined. OP 4.12 provides related land transaction fees. Land Act not clear on this.</td>
</tr>
</tbody>
</table>
terms of valuing assets, if the residual of the asset being taken is not economically viable, compensation and assistance must be provided as if the entire asset had been taken. Compensation and other assistance required for relocation should be determined prior to displacement, and preparation and provision of resettlement sites with adequate facilities, where required

<table>
<thead>
<tr>
<th>Valuation: With regard to land and structures, “replacement cost” is defined as follows:</th>
<th>schedule defining just compensation have not been put in place.</th>
</tr>
</thead>
<tbody>
<tr>
<td>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</td>
<td>Attorney’s fees, cost of obtaining advice or cost incurred in preparing and making written claim not in the Land Act other than ‘just compensation’</td>
</tr>
<tr>
<td></td>
<td>The Act does not out rightly stipulate assistance for relocation but we can interpret that relocation cost will be included in just compensation.</td>
</tr>
<tr>
<td>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</td>
<td>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</td>
</tr>
<tr>
<td>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.</td>
<td>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.</td>
</tr>
<tr>
<td>Apply World Bank OP4.12 on valuation and compensation</td>
<td></td>
</tr>
</tbody>
</table>
the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes.

For houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors’ fees, plus the cost of any registration and transfer taxes.

| Monitor | According to Land Act can be undertaken County Land Boards. | Both Kenyan Law and World Bank policy advocates for Monitoring and Evaluation | Implement as prescribed in the World Bank OP4.12 and Kenyan Law. |
### 4.6 Comparative Analysis of World Bank OP 4.12 & Kenya’s Requirements Relevant to the Process

<table>
<thead>
<tr>
<th>Category of PAPs and Type of Lost Assets</th>
<th>Kenyan Law</th>
<th>World Bank OP 4.12</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Owners</td>
<td>Fair and just compensation which could be in form of cash compensation or Land for Land</td>
<td>Recommends land-for-land compensation. Other compensation is at replacement cost</td>
</tr>
<tr>
<td>Land Tenants</td>
<td>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.</td>
<td>PAPs are entitled to some form of compensation whatever the legal/illegal recognition of their occupancy.</td>
</tr>
<tr>
<td>Land Users</td>
<td>Land Act not clear on Land Users although in some cases they can receive some form of compensation depending on the determination by NLC</td>
<td>Entitled to compensation for crops and investments made on the land; livelihood must be restored to at least pre-project levels.</td>
</tr>
<tr>
<td>Owners of Temporary Buildings</td>
<td>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.</td>
<td>Entitled to in-kind compensation or cash compensation at full replacement cost including labor and relocation expenses, prior to displacement.</td>
</tr>
<tr>
<td>Owners of Permanent buildings</td>
<td>The constitution of Kenyan respects the right to private property and in case of compulsory</td>
<td>Entitled to in-kind compensation or cash compensation at full replacement cost</td>
</tr>
<tr>
<td>Category of PAPs and Type of Lost Assets</td>
<td>Kenyan Law</td>
<td>World Bank OP4.12</td>
</tr>
<tr>
<td>----------------------------------------</td>
<td>---------------------------------------------------------------------------</td>
<td>-------------------</td>
</tr>
<tr>
<td></td>
<td>acquisition, just compensation must be granted to the owner for the permanent building</td>
<td>including labor and relocation expenses, prior to displacement.</td>
</tr>
<tr>
<td>Perennial Crops</td>
<td>Compensation for the loss of crops</td>
<td>As per specifications of this RPF, once approved by the Bank and disclosed at the Bank info shop,</td>
</tr>
<tr>
<td>Casual Labourers</td>
<td>Not specific on livelihood. The constitution says some pay maybe made in good faith</td>
<td>Compensation and Livelihood restoration to pre-displacement level.</td>
</tr>
</tbody>
</table>
5 PROJECT IMPACTS

5.1 Minimizing Displacement and Social Impacts

Efforts have been made to align the water pipeline easement within the riparian land as much as possible so as to avoid or minimize relocation and therefore resettlement and disturbances arising from land acquisition in line with the World Bank OP 4.12. Additional measures taken or steps to be taken to reduce impact include:

- Water pipeline will be as much as possible designed to follow river riparian and road reserves.
- A water tank will be constructed in Public Institutions and Churches where land is available.
- Roads for earth moving equipment will be constructed along the earmarked main canal and/or existing tracks to limit social disturbances and destruction of the environment.
- All those that shall be affected by the project will be fully compensated before project commencement.

5.2 Anticipated impacts

5.2.1 Impact on Land: The Project-Affected Area

The proposed project will have minimal impact on land due to the fact that there will be limited acquisition of land from PAPs, most of the water pipelines pass through river riparian and road reserves, however easement will be acquired where the water pipeline is laid in peoples farms. Adequate compensation has been allowed to the persons who will surrender the easement for the project.

5.2.2 Impacts on People and Livelihoods

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

- The inventory of all fields cultivated in the Project-Affected area, including their measurement, description of standing crops if any, identification of stakeholders (owners, tenants, sharecroppers, as appropriate),
- The census of Project-Affected People, including the administration of a socio-economic questionnaire.
Overview of the Results of the Census
A total of 93 plots belonging to 93 households will be affected by the proposed project. The study revealed that no Person will be relocated as the pipeline is designed to follow the river and some instances roads, so persons will only lose fraction of the their parcels to water pipeline easement.

5.2.3 Impact on Public and Community Infrastructure

Roads
The project will not adversely impact on the road network instead improved access will be realized in the project sites that have limited and or poor infrastructure since the construction process will entail construction of access to enable transportation of the construction equipment to site.

Graveyard
There is no public graveyard within the project site that could be adversely affected; there are no graves either in the other project sites.

Churches
No church will be affected by the proposed project.

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

5.2.4 Impact on Businesses

The proposed route for the water pipeline will not affect any business as the area, only farmland will be affected

5.2.5 Impact on Cultural Sites

There are no cultural sites like shrines etc. in the project sites
6 RESETTLEMENT COMPENSATION STRATEGIES

6.1 Key Principles

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

- Resettlement and compensation of Project-Affected People will be carried out in compliance with Kenya’s legislation and World Bank’s Policies and Procedures on involuntary resettlement OP 4.12
- Both Physically-Displaced People and Economically-Displaced People will be compensated for their losses of livelihood,
- WASSIP AF 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,
- The RAP implementation and outcomes will be monitored and evaluated as part of a transparent process,
- PAPs and host communities will be informed and consulted during the whole course of RAP development, implementation and evaluation.

6.2 Conditions of eligibility for compensation

6.2.1 Cut-Off Date

The practical Cut-off Date for implementation of the RAP will be deemed to be the date at which the census of affected people and affected assets was completed i.e. on 12th July 2013. No structure or field established in the Project-Affected Area after 12th July 2013 shall be eligible for compensation.

6.2.2 Eligibility

Assets, which basically include farmland for easement acquisition, crops and trees that were surveyed in the Project-Affected Area by the Cut-off date, are eligible for compensation.

6.3 Entitlements

The Entitlement Matrix describes compensation and related assistance for each category of affected PAP. It is presented in Table 6-1 hereunder.
<table>
<thead>
<tr>
<th>Affected Asset</th>
<th>Affected Right or Interest</th>
<th>Eligible Entity (Individual or Household)</th>
<th>Eligibility Conditions</th>
<th>Entitlements</th>
</tr>
</thead>
<tbody>
<tr>
<td>AGRICULTURAL LAND</td>
<td>TITLED LAND: Land held under a registered title deed</td>
<td>Registered land that was registered with relevant Authorities prior to the Cut-Off Date</td>
<td>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 – Cash compensation for land or non-cash compensation of land (land for land)</td>
<td>Cash compensation of all immoveable developments on the affected land, such as structures, etc... - See below “Structures”</td>
</tr>
<tr>
<td></td>
<td>UNTITLED LAND: Land held under customary ownership, and not registered</td>
<td>Customary land owner (legally an unregistered), whether resident or non-resident – INDIVIDUAL</td>
<td>Hold, prior to the Cut-Off Date, an unregistered, customary land and be recognized as such</td>
<td>Replacement of lost land by agricultural land of similar potential under similar customary tenure arrangements – Cash compensation for land or non-cash compensation of land (land for land)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Cash compensation of all immoveable developments on the affected land, etc.... - See below “Structures”</td>
<td>Cash compensation of standing crops – See below “Crops”.</td>
</tr>
<tr>
<td>Affected Asset</td>
<td>Affected Right or Interest</td>
<td>Eligible Entity (Individual or Household)</td>
<td>Eligibility Conditions</td>
<td>Entitlements</td>
</tr>
<tr>
<td>----------------</td>
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<td>-------------</td>
</tr>
<tr>
<td>RENTED LAND: Land rights obtained temporarily as per a customary rental agreement</td>
<td>Tenant as recognized by the customary landowner and customary authorities whether resident or non-resident—INDIVIDUAL</td>
<td>Occupy land prior to the Cut-Off date as per a rental agreement recognized by the land owner and customary authorities</td>
<td>No compensation for the land itself. 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”</td>
<td></td>
</tr>
<tr>
<td>RESIDENTIAL LAND</td>
<td>UNTITLED LAND: Land held under customary ownership and not registered</td>
<td>Customary land owner (legally an unregistered owner) – INDIVIDUAL</td>
<td>Hold, prior to the Cut-Off Date, an unregistered, customary land and be recognized as such by local customary authorities</td>
<td>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 – Cash compensation for land or non-cash compensation of land (land for land)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Cash compensation of all immovable developments on the affected land, such as structures, wells, etc... - See below “Structures”</td>
</tr>
<tr>
<td>Affected Asset</td>
<td>Affected Right or Interest</td>
<td>Eligible Entity (Individual or Household)</td>
<td>Eligibility Conditions</td>
<td>Entitlements</td>
</tr>
<tr>
<td>---------------------</td>
<td>---------------------------</td>
<td>------------------------------------------</td>
<td>----------------------------------------------------------------------------------------</td>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>CROPS</td>
<td>STANDING NON-PERENNIAL CROPS</td>
<td>Owner of the crop – INDIVIDUAL</td>
<td>Be the recognized owner of a standing crop and be unable to harvest it prior to land occupation by project</td>
<td>Cash compensation at full replacement value</td>
</tr>
<tr>
<td></td>
<td>STANDING PERENNIAL CROPS</td>
<td>Owner of the crop – INDIVIDUAL</td>
<td>Be the recognized owner of a standing perennial crop</td>
<td>Cash compensation at full replacement value</td>
</tr>
</tbody>
</table>
6.4 Overview of Compensation Packages for the Main Categories of Project-Affected People

Based on the eligibility matrix, Table 6-2 hereunder presents an overview of eligibility criteria and compensation packages for each of the five main categories of Project-Affected People identified.

<table>
<thead>
<tr>
<th>Category of PAP</th>
<th>Eligibility Criteria</th>
<th>Compensation Package</th>
</tr>
</thead>
<tbody>
<tr>
<td>A: Permanent residents, also customary holders of agricultural land</td>
<td>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</td>
<td>- Resettlement house of similar or better quality on a resettlement plot (best practice) AND cash compensation of the lost house at full replacement value</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Replacement of lost land by agricultural land of similar potential under similar tenure arrangements near the resettlement site – No cash compensation of land if the household does not choose resettlement</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Cash compensation of all immovable developments on the affected agricultural land, such as structures, canals, soil improvement, etc</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Cash compensation of standing perennial crops at replacement value and of non perennial crops at market value</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Moving allowance if the household vacates the Project-Affected Area at a given date</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Livelihood restoration package</td>
</tr>
<tr>
<td>Category of PAP</td>
<td>Eligibility Criteria</td>
<td>Compensation Package</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>B: Permanent residents and tenants or sharecroppers of agricultural land</td>
<td>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</td>
<td>- Cash compensation of the lost non-permanent house at full replacement value&lt;br&gt;- Replacement of lost land by agricultural land of similar potential under similar customary tenure arrangements anywhere in the Area&lt;br&gt;- Cash compensation of all immoveable developments on the affected agricultural land, such as structures, canals, soil improvement, etc...&lt;br&gt;- Cash compensation of standing perennial crops at replacement value and of non-perennial crops at market value&lt;br&gt;- Moving allowance if the household vacates the Project-Affected Area at a given date&lt;br&gt;- Livelihood restoration package</td>
</tr>
</tbody>
</table>
6.5 Cash Compensation

General
The term ‘cash’ is used in this RAP to denote payments in currency. Experience in sub-Saharan Africa indicates a high risk potential with large, lump-sum cash payments to parties who have little experience with money management. While the project shall provide compensation in cash consistent with the local law requirements, the project will also include a number of additional benefits that are not represented in the cash compensation package. These additional, non-monetary benefits are intended to mitigate resettlement risks recognized under the involuntary resettlement procedures for the bank, but not Kenyan law.

Though not legally required, the incremental costs of these benefits will be borne by the project so as to assure compliance with the project’s stated commitment to follow the guidelines and recommendations of the World Bank, while complying with the local law requirement to provide cash compensation valued at real replacement value.

Crops
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.

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

These rates are based on the following data collected during the 2013 socio-economic baseline study when preparing this RAP:

- Average yields and prices for typical crops grown in the project area:

  - The individual crop yields used in this calculation represent “good harvests” as reported to the socioeconomic team in meetings in the villages,
  - Crop prices used in calculations were taken from results of the visits to the central market in Kiambu Town

Perennial Crops
The calculation of the value of perennial crops for compensation is also based on the market rates and includes the type of crops, the age and size or area under which the crops are grown. These factors have been used as the basis for the calculation of perennial crop loss.
Compensation rates are factored for the following stages of tree development:
- Seedling,
- Young, not productive,
- Young productive,
- Mature.

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

\[ C = V \times D + CP + CL \]

*Specificities of Tenants and Sharecroppers*

Tenants will be paid the whole compensation value for the crop they have grown.
7  GRIEVANCE MANAGEMENT & REDRESS

7.1 Likely Types of Grievances and Disputes

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

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

7.2 Management mechanism

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

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

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

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

7.3 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.

7.4 Structures for Grievance Management

In the absence of a grievance mechanism that must be instituted and overseen by NLC according to the Land Act, this RAP proposes that the SCRCC and LRCCs provide this function on a transitional basis until NLC is fully operational and clear structures defined.

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

These committees will seek to resolve PAPs issues quickly in order to expedite the receipt of entitlements, without resorting to expensive and time-consuming legal process in the Environment and Land Court\(^48\) or high court that may delay the implementation of the project. Appeals to the court will only be occasioned if the grievance procedure fails to provide a result.

7.5 Process Procedures of Lodging Complaints

- SCRCC /LRCCs will inform PAPs of their losses and entitlement.
- If satisfied, the PAP claims resettlement payment directly from NLC\(^49\). If dissatisfied or the PAP does not clearly understand the entitlement/any aspect of the resettlement plan, s/he approaches the LRCC for clarification.

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\(^{48}\) This is court that is proposed by the Constitution of Kenya 2010 to deal with resettlement and land disputes

\(^{49}\) NLC is official mandated organization that makes compensation award under the Kenyan laws
• The LRCC makes a note and explains the unclear issues to the PAP in accordance with the RAP. If the issue(s) are resolved, the PAP collects the payment from the paying authority, NLC\textsuperscript{50}. If not resolved, PAP moves to the next step.
• PAP will fill a specifically pre-designed complaint form and append his or her signature and formally submit it to LRCC office; or LRCC documents the complaint on behalf of the PAP. The LRCC members will assist those who cannot fill up the forms.
• A copy is maintained by LRCC and another copy passed to SCRCC.
• LRCC attempts to find a solution through arbitration, explaining, settling, or facilitating consensus dialogue.
• If not successful LRCC assists PAP to fill a complaints form appended with his/her signature and formally submits to the SCRCC.
• The DRCC holds a session with the aggrieved PAP and minutes recorded.
• SCRCC attempts to find a solution through arbitration, explaining, settling, or facilitating consensus dialogue. If resolved, SCRCC approves and the PAP collects his/her entitlements from NLC.
• If deemed necessary by the SCRCC, the case will be re-investigated and necessary corrective measure undertaken. Figure 7-1 below show schematically how the grievances will be addressed.
• If not resolved, the complainant can seek redress in Environment and Land Court or register his/her case in any High Court in Kenya. The Land and Environment court deals specifically with land and environment related disputes of which resettlement and valuation are part. The legal option will only act as avenue of last resort and will be sought after all other redress mediums have been exploited and exhausted.

The Project thus will put in place an extra-judicial mechanism for managing grievances and disputes arising from the resettlement process based on explanation and mediation by third parties. Each of the affected persons will be able to trigger this mechanism, while still being able to resort to the judicial system. Procedures relevant to this amicable mechanism are detailed below. It will include three different levels (see also Figure 7-1):

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

\textsuperscript{50} Same comment as footnote 71
7.5.1 Grievance Registration and Monitoring

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

- Community Liaison Officer in Project Office in Kiambu,
- Construction Site.
**Figure 7-1: Grievance / Dispute Management Mechanism**

1. Registration of the grievance or dispute
2. Treatment of the grievance or dispute
3. Closure of the grievance or dispute
4. **Complainant Satisfied With Outcome**
   - Yes: Final closure
   - No: Resort to Mediation Committee
5. **Response of the Mediation Committee**
   - Yes: Final closure
   - No: Grievance processing by Mediation Committee
7. **Complainant Satisfied With Outcome**
   - Yes: Final closure
   - No: One or the other party resort to Justice

**Notes:**
- YES: Always proceed forward along the path.
- NO: Always proceed to the left along the path.
The existence of this register, as well as procedures to lodge a complaint (where, when, etc.), will also be broadly advertised by PIU. The register will be established as of the commencement of resettlement and compensation activities. For each grievance, a grievance file will be opened, including the following elements:

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

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

### 7.5.2 Mediation Committee – Amicable Resolution Mechanism

**Mediation Committee**

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

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

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

**Processing**

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

The complainant(s) will be invited before the mediation committee, which will mediate and attempt to propose a solution acceptable to both parties PIU and complainant). If need be, other meetings will be held and the committee may resort
to one of its members to arbitrate in a less formal framework than meetings, if appropriate.

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

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

8.1 General Objectives of Monitoring

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

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

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

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

8.2 Internal Monitoring

8.2.1 Objectives

Monitoring will address the following aspects:

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

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

- The process of compensation for easement acquired for Riara and Kamiti pipelines
- Amounts of compensation paid per category (land, crops, others) and
- Grievances (open, closed).

A brief quarterly internal monitoring report will be prepared on this basis.

8.3 External Monitoring

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

Objectives of these biannual reviews are as follows:

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

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

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

External monitoring reports will be prepared independently by the reviewer and released to the lenders and to the public after review by PIU for factual accuracy.
9 PUBLIC CONSULTATIONS AND DISCLOSURE

9.1 Introduction

Consultation with affected communities started during preparation of Environmental Impact Assessment EIA for the project in June 2013, a committee was formed to represent the interest of the project affected persons in the designs and planning stages of the project.

Public consultations were held primarily during the following periods;

1. During the development of the Environmental and Social Impact Assessment (ESIA) and
2. During the preparation of the RAP in June and July 2013.

The main issues raised in these meetings were the following:

- Livelihood restoration
- Compensation
- Employment

9.2 Village Resettlement Committees

A formal consultation mechanism will be put in place to allow for continuous interaction between the communities and PIU. Resettlement Committees will be nominated in the Project Affected villages.

9.3 Consultation Concept

9.3.1 Resettlement Planning Stage

Any sensitive decision will be made by the affected communities in consultation with PIU which will organize meaningful information and consultation so that this process can take place between the project and fully informed community members.

Although initial consultations described above have been key in defining preliminary options outlined in this RAP, consultation with communities will be critical in refining options identified in this RAP.

Wherever decisions have to be made by communities, consultation at planning stage will generally be organized in the three following stages:
• Disclosure of preliminary options, as described in the RAP, to the resettlement committees,
• Discussion of these options with resettlement committees, and tentative selection of the preferred option,
• Disclosure of the preferred options in public meetings with the resettlement committees and the general population, and validation of this option in public.

9.3.2 Resettlement Implementation Stage

The resettlement committees will remain active during the implementation stage, and will remain the choice channel to convey communities’ concerns and questions to PIU. It is likely that a number of issues will need consultation and discussions including:

• Management of transitional assistance,
• Management of assistance for vulnerable people,
• Disputes of various kinds.

9.4 Disclosure

Athi Water is obligated to disclose documentation locally, and will make the following available:

• Full RAP in English (one copy available at all times in Project information offices, one copy given to the resettlement committees),
• Update notes when needed, given to each of the resettlement committees and publicly available at Project information offices.

In addition, this RAP will be publicly disclosed in English on the AWSB’s and the World Bank’s website.
10 IMPLEMENTATION OF THE RAP

Compliance with social commitments contained in this document will be under the responsibility of the Environmental Officer in AWSB/PIU, who reports to the Project Coordinator. The Environmental Officer is responsible for securing and maintaining the project’s social license to operate, which during the project’s construction phase will entail the following areas of oversight and responsibility:

Oversee and provide quality assurance on the following:

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

As mentioned, the Environmental Officer will be supported by a field based team leader in the primary functional areas of resettlement planning, community relations and community development, each of whom will have the requisite staff and material support to achieve their mission.

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

The PIU Coordinator will serve as the primary point of contact between communities of the project affected area and the project, and will have the following primary areas of responsibility inter alia:

- Liaise with County and Sub County government with regard to local community liaison and issues and in consultation with appropriate personnel
- Log and respond to grievances lodged by members of the community
- Organize and facilitate compensation payment actions
- Obtain prior written permission from community leaders/affected members for any intended damage to any infrastructure, crops or land as a result of construction and compensation to be paid.
10.1 Liaison with the Government of Kenya

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

The PIU key roles will be to ensure completion and implementation of the RAP. Other roles for the PIU will include;

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

10.1.1 Public Participation with the PAPs

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

10.1.2 Notification of land resource holders

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

10.1.3 Agreement on Compensation and Preparation of Contracts

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

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

10.2 Budget

The total compensation budget is as shown in Table 10-1.

<table>
<thead>
<tr>
<th>S/NO</th>
<th>Area</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Riara Line Large Scale Land Owners</td>
<td>120,399,380.00</td>
</tr>
<tr>
<td>2</td>
<td>Riara Line Small Scale Land Owners</td>
<td>7,926,500.00</td>
</tr>
<tr>
<td>3</td>
<td>Kamiti Line Small Scale Land Owners</td>
<td>26,101,148.29</td>
</tr>
<tr>
<td>4</td>
<td>Kamiti Line Large Scale Land Owners</td>
<td>40,602,750.00</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>195,029,778.29</td>
</tr>
</tbody>
</table>

10.3 Administrative Costs for Implementing the RAP

Annual budgetary arrangements should be made for the running of the various arms of the implementation committee. Budgetary arrangements should include the following:

- Resettlement staff salaries and benefits;
- Office capital investment costs and running expenses;
- Implementation Committee capacity building, especially for community representatives;
- Logistical costs for travel to meetings and field visits to both the departure and receiving sites. These costs include, fuel costs for staff, and logistical costs for inclusion of implementation committee members and the independent evaluation panel;
- Resettlement preparation costs;
- Public participation costs for activities such as social surveys, public meetings, interest group meetings and/or workshops etc;
- Logistical costs for grievance handling and resolution;
- Financial auditing costs;
- Monitoring and evaluation costs;
• Specialised surveys to evaluate the improvements required and / or the success of the re-establishment of incomes and livelihoods.

10.4 Implementation Schedule

Tables 10-2 and 10-3 present the RAP implementation schedule from the 1st stage of planning (currently on-going) to the 2nd stage of implementation.

Table 10-2: RAP Implementation Schedule – 1st Part – Planning and RAP Finalization

<table>
<thead>
<tr>
<th>No.</th>
<th>TASK NAME</th>
<th>MONTH 1</th>
<th>MONTH 2</th>
<th>MONTH 3</th>
<th>MONTH 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>RAP FINALIZATION</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>2.</td>
<td>Census Finalization</td>
<td></td>
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<tr>
<td>3.</td>
<td>Census Residences</td>
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<tr>
<td>4.</td>
<td>Census Fields</td>
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<tr>
<td>5.</td>
<td>Checks on Census</td>
<td></td>
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<td></td>
<td></td>
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<tr>
<td>6.</td>
<td>Release of Census results to communities</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7.</td>
<td>Information Management System</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8.</td>
<td>Consultant Mission</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9.</td>
<td>Inputing Data into new data management system</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10.</td>
<td>RESETTLEMENT DOCUMENTATION</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11.</td>
<td>Submission of RAP to World Bank</td>
<td></td>
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<td></td>
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<tr>
<td>12.</td>
<td>Review by World Bank</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>13.</td>
<td>Update of RAP to include preparation and consultation progress</td>
<td></td>
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<tr>
<td>14.</td>
<td>Submission and release of updated RAP</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No.</td>
<td>TASK NAME</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>-----</td>
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<td>16.</td>
<td>Cash Compensation</td>
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<td>17.</td>
<td>Payment of compensation for crops and Easement</td>
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<td>18.</td>
<td>Resolution of disputes</td>
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11 CONCLUSION

This study is a RAP for the Proposed Kiambu Water Supply Project. The Project is aimed at improving water access to the residents of Kiambu County. The impact of resettlement arising from the proposed Project will include loss of land and impact on vegetation and tree cover.

This study established that the project would affect the livelihoods and welfare of a total of 93 households within Kiambaa, Ndumberi, Kanunga, Githunguri, Githiga and Ikinu areas. This therefore necessitated the preparation of the RAP to mitigate the impacts of resettlement.

The study proposes that with collaboration from AWSB, National Government Administration, Kiambu County Government staff and PAP representatives, the RAP will be adequately implemented.
Annex 1: Minutes of Meetings
KAMITI AND RIARA DAMS STAKE HOLDERS MEETING

DATE: 19/9/2012

VENUE: Kiambu county hall

AGENDA: AUGMENTATION OF WATER SUPPLY THROUGH GRAVITY SYSTEM.

IN ATTENDANCE:

1. The land owners that are affected by the proposed project (37 against the number of 50 invited verbally and through letters).

2. Relevant government department’s representatives.

Min 1/19- The meeting was called to order at 11.15am and opened with a word of prayer from one of the members.

Min2/19- The District Commissioner opened the meeting by welcoming all the members and requested each one to make self introduction.

Min3/9 - Opening remarks: The DC was impressed by the attendance which included representatives from Government Departments within the County namely:

- Water and Irrigation
- Lands
- Water Resources Management Authority
- Public Health
- Athi Water Services Board
- District Physical Planning

Kiambu Water and Sewerage Company were also represented.

Min 4/19- the DC asked members if they saw the Government officers surveying the pipe route/line and in agreement all recalled seeing them. On that note he, the DC explained the importance of having such a project within an area as it gives the area an added value on the existing lands around the zone.

The DC further briefly explained the reason why all the members were invited is to deliberate on the way forward in respect to the project because in one way or another one will be touched by either the DAMS, Water Treatment and storage tank or a stretch of pipeline.

Further the DC reminded members that such projects had come up in the past and due to one reason or another they failed. On this note, He asked members to feel honored by having DONORS who are ready to support the project and thus all members to take it as their own and save the funds not to go back to the DONOR.
Min 5/19- The ministry of water officer notified members that the entire project was proposed in view of reducing water crises in the County.

Min6/19- The Technical Manager from Athi Water Services Board explained to members that his office had earlier negotiated with the late Hon. Njenga Karume who welcomed the idea of solving water crises but unfortunately there were no funds available at that time. However, members were informed that by now the money is ready and DONORS are waiting for the land owner’s response which will open the gate way to construction of the proposed two weirs on Rura and Kamiti rivers being the first priority in Kiambu County.

The Design has been worked on and completed by the officers.

Min7/19- The officer further explained to farmers that the challenges regarding compensation is normally encountered because the concerned party tend to contradict the set Land and cop values at the time of construction. He further explained to members that the since land value is just one part of benefits towards this project, the members are expected to accept the offer by the Government through the normal valuation process.

Min8/19- Members were explained that since the survey work has been completed the Valuation and establishment of actual members to be directly affected by the dams or pipelines will be finalized after a committee composed of Lands and farm estates representatives visit them on the grass root.

Min 9/19 – A committee of was formed representing each stake holder and a meeting was planned to take place on Friday the 21/9/2012 at 9.00am at District Water Office Kiambu. This meeting is expected to plan for the field work to establish and record each member on the ground. Members of the committee and their telephone contacts are as follows:

Ms. Teresia Karuga, 0722641379
Mr. Peter Gakwa, 0722469843
Mr. Wilfred Kariuki, 0723363468
Mr. Peter Kyebea, 0725652898/ 0733926442
Mr. Albert Kigera Karume, 0720443883
Mr. Peter Mbugua, 0729654417
Ms. Naomi Njambi, 0724815663
Mr. Peter King'ara, 0721403210

Ministry of Lands
Ministry of Agriculture
Ministry of Water and Irrigation
Ministry of Public Health
National Environment Management Authority (NEMA)
Water Resources Management Authority (WARMA)
Athi Water Services Board
Kiambu Water and Sewerage Company Limited

Min 10/19- Members were informed that after the final meeting where each will be expected to have entered into an agreement, the Government will then open an account to deposit their money and on signing the designated form they will access their money at the Bank.

11/19- Some members wished to know their fit after completion of the project since they also don't have piped water. Others wanted to know if they could be allowed to keep fish as food security but was explained that once the project is over other agendas will be discussed. Meanwhile, members' upstream was assured of getting water from the tank that will be constructed at the treatment works.

Min12/19- On the closing remarks the DC commended the members for attending the meeting in a good number so that each person could be able to give comments or raise an issue of interest. He also informed the meeting that the proposed projects will be tabled at the next District Development Committee (DDC) meeting.

Min13/19- Having no other business the meeting ended at 1.00 p.m. with a word of prayer.

Minutes Compiled by: J. Karanja

Checked by: Peter Kigara

Minutes proposed by: J. K. Tuukuo
AGENDAS:

1. Calling meeting to order.
2. Reading and adoption of previous Stake Holder’s Meeting held on 19/9/2012.
3. Matters arising from the previous meeting.
4. Mode of field visit (Subdividing the entire area into workable zones).
5. Setting-out visiting dates for each zone.
6. Setting date for next general meeting.
7. A.O.B.

Min 1/21- The meeting was called to order at 9.25am and opened with a word of prayer from one of the members.

Min 2/21- The Chairman opened the meeting by welcoming all the members and commended some of the members who came early. He cautioned that in future all meetings shall be conducted in time and end within the set time unless otherwise an agenda happen to drag the meeting but will always try to finish within a reasonable time.

Min 4/19- The minutes were read and proposed by Peter Kigera and adopted as true copy of previous meeting.

Min 5/21 – In the matters arising, it was noted that one officer from NEMA was missing the first meeting. That was collected.

Min 6/21 – Members agreed that the site visit to take two days for the two zones Rilaara River and Kamiti River respectively with each visit starting from the proposed intake point, treatment works, storage tanks and traverse through the various lands and big farms up to the terminal point for each gravity system. During the visit each farmer/land owner will be expected to show his or her land with relevant documents in order to verify who owns the land and how much of the land will be acquired or how much of crops will be destroyed and hence compensation will be determined by the officer concerned.

Min 7/21 – In order to start off with the verification of land owners, members proposed Tuesday and Wednesday (24th - 26th Sept).

The dates were accepted and all members were requested to assemble at DWO Yard so that all would start journey at once.

Min 8/21- A.O.B

- It was noted that some of the members within the two sites has a challenge since they are yet to get tittles later. The reason to this challenge was highlighted as one major reason which actually affects most families.

(a) Brothers and sisters allocated pieces by their parents with whom they are living together and the title deeds bearing their parent’s names.

(b) Others might have their no parents and has not yet processed the title deeds. This raised a question on the forward.

(c) The lands officer briefly explained that in such cases members should not get worried since after verification of title deeds owners the second step is to get all the beneficially within a particular parcel of land and request them to write an agreement on the amount to be allocated for that land. Having now submitted the agreement, the names will be taken to the Bank with full details and each member would access his or her money without any other involvement.

(d) It was also mentioned that on the side of crops each person will be compensated independently in respect to what would be in the parcel under his or her name.

(e) On the actual size of land to be acquired, a member wished to know the way forward and where about the beacons could have been placed. The question was answered by an MD Kiambu Water that since beacons/pegs has been placed on the ground we shall see and counter check when we visit the sites. On the same note Technical officers were requested to make sure all beacons are in place.
(f) The DWO Klambu requested that MD Klambu Water and the lands officer to prepare the maps with RAM To be used during the sites visit. The report on the same was expected to be ready by Tuesday.

(g) On the Environments Impact Assessment an officer in charge from AWSB was requested to liaise with the NEMA Officer to compare notes while considering other factors.

(h) The Manager WRMA informed members that water users Association should be incorporated in our meetings since they play a great role in water management affairs. This was unanomously accepted.

(i) Chief Technical Manager AWSB reminded the members that while visiting the site at least Chief to be informed through D.O's Office.

(j) A wished to know about allowances and was informed that arrangements were under way.

Having no any A.O.B the meeting ended at 11.10AM.

Minutes prepared by: J.M. Karanja

Proposed by: LAWRENCE NFTICH

Seconded by: STEPHEN MUGANDI
KAMITI AND RIAK RIVERS SUB-COMMITTEE MEETING.

DATE: 1/10/2012
VENUE: DWO'S BOARDROOM – KIAMBU WATER OFFICE.

AGENDA:

1. Review of field visit done on 27/9/2012
2. Way forward.

Min 1/1/10/2012 Welcome note:

The chairman welcomed members present and highlighted on the main aim of the day's meeting, which was to draw work a work plan which would act as a guide to every department while carrying out their respective duties so as to meet the set deadlines effectively within the next two weeks.

Min 1/2/10/2012 Matters Arising

The lands officer and the surveyor informed members that such big farms e.g. for Koinange, Sasini and for the late Hon Njenga Karume's has their titles in Nairobi and so the requisite search should be done from the head office urgently. The search was to be carried out by the surveyor. For those based in Kiambu we can get the search easily after payment for the services. This will actually take a day through the facilitation of the Lands officer.

Min 1/3/10/2012 Carrying out the SEARCH.

The process for carrying out the "search" on the title deeds would only start when all necessary drawings and beacons and pegs are in place (fully prepared by the surveyor who did the survey work and the surveyors from Kiambu survey office.). The Kiambu surveyor was also to finalize with the actual sizes of the way leave to be acquired including the ten meter buffer zone, and the final points for the treatment works to ensure accuracy during the land and crop evaluation.

The land surveyor promised that as soon as the ministry's surveyor presented the requisite information, it will be easier for the technical team to achieve the set goals especially for the lands whose titles are within Kiambu. They also spoke on the phone with the surveyor (Mr. Kimwea from Thika District Water Office)

Min 1/4/10/2012 Land acquisition;

The surveyor was thus requested to avail a schedule for all the lands/plot numbers in liaison with the MD Kiambu Water. According to the lands officer, the activities of identifying actual land owners ought to have been completed even before we started the meetings. The Chairman informed the meeting that this was the first time the exercise was being carried out and there were bound to be challenges which he believed were surmountable.
The Lands officer informed members the law only recognizes compulsory land acquisition for public interest and he was concerned that the envisaged land - buyer agreement would not be within the law such that if differences were to occur in future, then the project might not see the light of the day. Mr. Sakwa from Athi Water Services Board informed members that the World Bank which was financing the project was not comfortable with compulsory land acquisition. It prefers a willing buyer – willing seller bases on land issues.

Min 1/4/10/2012 The Forester

The Land and Agriculture officer noted that we omitted an important person the Forester who is the only officer conversant with trees as there are trees along the entire route.

Min 1/5/10/2012 Work Plan

The issue of drafting a work plan was kept pending until the surveyor gives a way forward after a detailed field visit. This would be communicated to all members.

Min 1/6/10/2012 Road Reserve:

The other noted areas that required urgent attention is the road reserve which must be applied for before the construction works commences. Alongside those requirements, other applications should have been done and relevant certificates are available.

Min 1/7/10/2012 Way forward:

The technical team was charged to meet the main committee as soon as the pending issues are sorted out and at least has a progress report in place.

Having no any other business the meeting ended at 12noon with a word of prayer.

Minutes confirmed this day 17th / 10 2012 by:

__________________________
Joseph Karanja
(Secretary to the Committee)

Minutes confirmed this day 17th / 10 2012 by:

__________________________
James Mbugua
(Chairing: Managing Director Kiambu Water & Sewerage Company.)
RIARA AND KAMITI DAMS TECHNICAL COMMITTEE MEETING

DATE: 17/10/2012

VENUE: DWO BOARD ROOM

IN ATTENDANCE: REPRESENTED DEPT.

1. KAMITI WRUA- CHAIRMAN
2. RIARA WRUA- CHAIR PERSON
3. KENYA FOREST SERVICES
4. WRMA
5. SURVEYORS
6. LANDS DEPT.
7. MINISTRY OF AGRICULTURE
8. MW&I
9. KIAMBU WATER COMPANY

AGENDA:

Min 1/17/10/2012.

The meeting was called to order at 9.30am and meeting was opened by a word of prayer.

There after a self Introduction was done by the members present.

Min 2/17/10/2012.

The previous meeting was read and confirmed by S. M. Muchunu and seconded by Njogu G. Munyu.

Min 3/17/10/2012- matters arising:

For the big farms, the surveyors commented that during the previous meeting Mr. Sakwa had promised to submit the drawings done by the surveyor who did the survey work. The Chairman informed the meeting that since Athi Water Services Board is our Principal and thus the Kiambu Water and the DWO Offices will take up the matter accordingly.

On the same note, the survey team explained that there were challenges in processing the maps as was requested previously since the survey of Kenya did not have the ink to print the same. However, they given a week's time when they would go back to check progress.
Min 4/17/10/2012

Since without maps it means there would be no progress, Land's Officer and the surveyor in corroboration with the WRUA persons would check from their records (title numbers to assist the committee to carry out the search without much strain. Meanwhile, it was agreed that the Surveyor, WRUA Chairpersons and Water officers team up on Friday 19th /10/2012 from 9am starting with Kamiti River and lastly to Riara River to get farmers details (copies of title deeds and identity Cards to ease the searching process.

Min 5/17/10/2012

It was reported that during site visit for the Riara pipe lines it was noted that a portion of it require adjustment to avoid dealing with more farmers. This however, was agreed that the surveyor go ahead and prepare the record to facilitate the drawing which they said soon the field work is complete they would take at least less than a week time. The Surveying process was set to start on 18th to 24th this month and drawings starts off from 25th.

Min 6/17/10/2012 acquisition of lands.

The lands Officer explained to members that there office resolved that in order for us to meet the Donor's requirements the committee will go ahead with the previous arrangements, where, the land owners will be expected to prepare their claims which will be compared with the ones that the respective officers will have prepared during valuation exercise i.e. Lands Officer, Agriculture/Crops Officer and the Forester.

Min 7/1/7/10/2012 TITLE MAPS.

-The Lands Officer introduced a sample title map for Nyanduma Water Project for the committee to see what He is lacking to facilitate other programmes in order i.e to have them marked names, area and plot nos. and facility that encroaches the parcel of lands to be acquired.

-the Lands Officer informed the meeting that once the Surveyor submits the plans He would proceed with valuation exercise. On that note he informed the members that he will not involved during negotiation exercise.

-He further suggested that in order to save a lot of payment schedules, it would be easier for the total value of the lands be done collectively by all the officers concerned. That was agreed by the members.

Min 8/17/10/2012 MEETING FARMERS.

Since the maps from the Survey of Kenya seem to longer, It was resolved that the committee to meet farmers on Friday 19th to write a list gather records for every farmer to assist in the searching exercise (surveyor and water officers).
Min 9/17/10/2012 ROADS WAY LEAVE.

It was agreed that the roads Dept be briefed on the proposed project and be invited in the next meeting. Mr. Muchunu to take action.

Min 10/17/10/2012. WRUA MEMBERS.

It was also observed that during valuation and cutting of trees, the WRUA members to be involved.

Min 11/17/10/2012. AOB

- The Chairman Kamiti River WRUA Mr. Kariuki requested for a review of the allowance being given to them explaining involvement and travelling long distances giving example Riara River WRUA Chairperson coming all the way from Mwihoko. The means that one ends up spending his/her own money. This was noted and the Chairman promised to forward the complaint to AWSB since at our level it was not possible to take action on the issue.

Min 12/17/10/2012 - SURVEYOR.

The Surveyor informed the meeting that during the first committee meeting, they started the task of verifying the previously surveyed data without any consideration of missing or no beacons around the project sites. This called in re-budgeting of the extra works which will include drawings and all sizes of lands to be aquired per plot/lands. This exercise is said to take up to about three weeks from the date of this meeting. That is the time valuers will take up there task.

Having no AOB the meeting ended at 12.00 noon and closed with a word of prayer.

Ag. Secretary: Joseph Karanja ........................................ date

Chairing: M.D. Kiambu Water & Sewerage Company ........................................ date

 Proposed by.................................................................

Seconded by.................................................................
KAMITI RIVER LAND OWNERS 2ND CHIEF’S BARAZA

VENUE: GITHIGA/ GATITU

DATE: 13/11/2012

AGENDA:

1. Review of previous meeting (2nd public sensitization dated 2/11/2012.)
2. Matters arising and Communication from water officers
3. Education on EIA MITIGATION FACTORS BY ENVIRONMENT OFFICER (AWSB).
4. Area Chief addresses the plot owners.
5. Resolutions
6. A.O.B

PRESENT STAKE HOLDERS

1. ISAAC W. KIMANI  - AREA CHIEF Githiga
2. JAMES MBUGUA  - MD KIAMBU WATER
3. JOSEPH M KARANJA  - MINISTRY OF WATER AND IRRIGATION
4. DAVID KARIUKI  - WRUA KAMITI
5. GODWIN SAKWA  - AWSB
6. ALBERT BOLOJI  - AWSB
7. GEORGE G. MUNYUJA  - DEPT. OF LANDS
8. MARY N. KAMUNYU  - SURVEY DEPT.
9. LUCY W. NJUE  - MIN. OF WATER
10. LAWRENCE NGETICH  - SURVEY DEPT.
11. ANN W. MWANGI  - P.H.O
12. MONICAH W. NJOGO  - KENYA FOREST BY SERVICES
Min 3/13 cont.

- The Officer in his remarks narrated to members that the issue regarding Environment is seriously observed before any project take place and analysis of such works e.g water works, petrol stations and many other such construction works that might change environment of an area.

- He further mentioned such activities are screened THROUGH EMCA (Environmental Management Co-ordination Act 1999) this Institution observed the (EIA) and termed the impact as low impact project hence a socially uplifting project. On the officer informed members that the report is still in draft form since the stake holders are yet to submit their proposals at later dates when need be during valuation exercise and probably the NEMA Officer could also see an important part that may have been ommitted. This means that the document is protected by the law and only presented to NEMA Officers where each stake holder is entitled to access for comments and suggestions. After the points are fully presented then District NEMA Officer can submit their grievances for further amendments.

- Members were informed that there will be no construction works that could be started until all matters were settled through all the channels/stake holders.

Finally the Officer informed members that for those whose plots will be taken by water will be valued with considerations of all factors such that farmers will not go at any loss. Meanwhile, the water which will be in the area shall be flowing through out and hence no stagnation to cause mosquito bleeding zones, i.e. the water will be flowing over the constructed weir.

Min 4/13/11/2012 Reactions from members: After brief explanation from the ENVIRONMENTALIST(A)

- Members happened to forget their previous question of the lands issue and relocation of the WEIR which came up again a 2nd time. However, it was re-addressed but members did not take lightly claiming that the ministry is avoiding USE of the land issued by the late Njenga Karume. The insisted that the WEIR SHOULd be re-located to the original proposed site such that even if, the formation and levels may not be comfortable for constructed of such water works at least the GOK Should use alternative materials to make sure the works goes to that place (originally proposed). This particular question was insisted by few members and brought about big subject for further discussions at a higher level since where ever the site will be at least other members will still be affected.

- Meanwhile, the MD Kiambu Water and the Ministry of Water representatives explained to members once again that though this question is coming up for the second time, its better for each member to first understand that before the ministry decided to carry out the construction works on their lands the ENGINEERS had gone through all the assessment and finally agreed on the zone now in question.

- While members are planning for their in house meetings to decide on the way forward, they were requested to consider that where ever the weir will be constructed it will touch both sides of lands and not one side of the river such that if we go by each member protecting his plot we might not go far. Therefore, members requested to meet again and come up with a concrete report on their actual requirements to be included in the NEMA Report and future positive ideas for next meeting.
Min 4 /13 CONT.

- After brief explanation from the ENVIRONMENTALIST, Members were also notified that during valuation process, they will have chosen their representatives who will be in the meetings at all levels to ensure that whatever they presented is covered in the report.

- On the same note the MD Kiambu Water reminded members about the issue of accepting the reality giving the example of Electric Cables all the way from Kindaruma to members, at least somebody sacrificed his or her land for the works to pass through. So were asked to support the project for the sake of their brothers and sister at Kiambu and even their own area.

- After clarifications, Members informed Officers that all they wanted most is clarification on their future compensation factors to ensure their families will not be subjected to poverty while other people are enjoying water from the area. That was further elaborated and hence one of them requested them that they make urgent decision to clear the way for the proposed water works to avoid such a situation where by the GOK WOULD MOVE TO ANOTHER STEP OF USING COMPULSORY QUISITION which is contrary to the previous promises by the ministry of water through AWSB.

This was supported by the lands officer who explained that AWSB wished all to cooperate and get the best they would want from the ministry without complications.

COMMENTS BY AREA CHIEF:

- The Area Chief in his remarks informed members that that he was amazed to hear that whatever we discussed on 2/11/2012 was being avoided and members decide to talk a fresh which has prolonged the meeting to that extent. However, he noted that members had no coordination and could have caused that repetitions of past questions. Due to the repetition of the past question on the reasons as to why the ministry cant shift the weir from the current position to another, The area Chief repeated his previous statement on the new constitution regarding water bodies as national commodity and nobody can refuse with it as long as it is meant to benefit public.

- The Chief requested that members organize for a meeting to discuss their own matters to be presented to the main meeting in a conclusive manner. The date was fixed as Thursday 15/11/2012 at 2pm.

- The proceeding of the farmers meeting will be communicated to the main meeting at a later date. In order to organize for another meeting.
Having no A.O.B, The meeting ended at 2.30pm with a word of prayer.

Minutes confirmed this day ........../.........2012 by:

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                Joseph Karanja
                (Secretary of the meeting)

Minutes confirmed this day ........../.........2012 by:

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                James Mbugua

(Chairing: Managing Director Kiambu Water & Sewerage Company)