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REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - THIRD SESSION - 2024
PUBLIC PETITIONS COMMITTEE

REPORT ON-

PUBLIC PETITION NO. 3 OF 2022 REGARDING DEGAZZETEMENT OF HOLA
IRRIGATION SCHEME LAND TO ALLOW FOR THE EXPANSION OF THE COUNTY
HEADQUARTERS OF TANA RIVER BY HON. SAID BUYA HIRIBAE, MP.

MARCH 2024

REPUBLIC OF KENYA THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 12 MAR 2024	DAY: TUESDAY
TABLED BY:	VICE-CHAIRPERSON PUBLIC PETITIONS COMMITTEE HON. JANET SITIENGEI
CLERK IN CHARGE:	B. INZOFO

DIRECTORATE OF LEGISLATIVE AND PROCEDURAL SERVICES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

Approved
12/3/2024

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LIST OF ABBREVIATIONS AND ACRONYMS

- CECM - County Executive Committee Member
- CS - Cabinet Secretary
- NIA - National Irrigation Authority
- NLC - National Lands Commission
- SSA - Special Settlement Area
- WRA - Water Resource Authority

CHAIRPERSON'S FORWARD

On behalf of the Public Petitions Committee and pursuant to provisions of Standing Order 227, it is my pleasant privilege and honour to present to this House the Report of the Committee on Public Petition No. 3 of 2023 regarding Degazettement of Hola Irrigation Scheme Land to allow for expansion of the County Headquarters of Tana River. The Petition was presented to the House pursuant to Standing Order No. 225 (2) (a) by the Hon. Said Buya Hiribae, MP on behalf of the residents of Galole Constituency, Tana River County.

The Committee considered the Petition and observed that the Petitioners were praying for the release of 2000 acres of land by National Irrigation Authority (NIA) towards the southern and eastern side to allow for expansion of Hola Town and thereafter compensate with an equivalent acreage towards the northern side. The Committee noted that a technical committee comprising stakeholders including the County Government, NIA, NLC representative and the elected leaders from the County was working on the proposal.

It is worth noting that NIA had agreed to cede the 2000 acres of lands to allow for expansion of the growing Hola Town and thereafter the CS Ministry of Lands and NLC would facilitate the degazettement process.

In response to the prayers sought by the Petitioners, the Committee recommends that the CECM in charge of Lands in Tana River County makes a formal application for public land allocation to the NLC for the various parcels of land identified by the technical committee for degazettement. The Committee also recommends that after the re-designation of the parcels of land, the NLC in adherence to the provisions of Statute and the Land (Public Land) Allocation Regulations 2017, should allocate the national public land of 2000 acres to the County Government for investment purposes.

The Committee wishes to thank the Offices of the Speaker and Clerk of the National Assembly for providing guidance and necessary technical support without which its work would not have been possible. The Chairperson expresses gratitude to the Committee Members for their devotion and commitment to duty during the consideration of this Petition.

On behalf of the Committee, I now wish to table this report before the House.


HON. NIMROD MBITHUKA MBAI, M.P.
CHAIRPERSON, PUBLIC PETITIONS COMMITTEE

PART ONE

PREFACE

1.1 ESTABLISHMENT AND MANDATE OF THE COMMITTEE

The Public Petitions Committee is established under the provisions of Standing Order 208A with the following terms of reference:

- a) considering all public petitions tabled in the House;
- b) making such recommendations as may be appropriate with respect to the prayers sought in the petitions;
- c) recommending whether the findings arising from consideration of a petition should be debated; and
- d) advising the House and reporting on all public petitions committed to it.

1.2 COMMITTEE MEMBERSHIP

The Public Petitions Committee was constituted in October 2022 and comprises of the following Members:

Chairperson

Hon. Nimrod Mbithuka Mbai, M.P.

Kitui East Constituency

United Democratic Alliance (UDA)

Vice Chairperson

Hon. Janet Jepkemboi Sitienei, M.P.

Turbo Constituency

United Democratic Alliance (UDA)

Hon. Patrick Makau King'ola, M.P.

Mavoko Constituency

**Wiper Democratic Movement-Kenya
(WDM-K)**

Hon. Edith Vethi Nyenze, M.P.

Kitui West Constituency

**Wiper Democratic Movement-Kenya
(WDM-K)**

Hon. Ernest Kivai Ogesi Kagesi, M.P.

Vihiga Constituency

Amani National Congress (ANC)

Hon. Maisori Marwa Kitayama, M.P.

Kuria East Constituency

United Democratic Alliance (UDA)

Hon. Joshua Chepyegon Kandie, M.P.

Baringo Central Constituency

Maendeleo Chap Chap Party (MCCP)

Hon. John Walter Owino, M.P.

Awendo Constituency

Orange Democratic Movement (ODM)

Hon. Bernard Muriuki Nebart, M.P.

Mbeere North Constituency

Independent

Hon. Bidu Mohamed Tubi, M.P.

Isiolo South

Jubilee Party (JP)

Hon. Caleb Mutiso Mule, M.P.

Machakos Town Constituency

Maendeleo Chap Chap Party (MCCP)

Hon. John Bwire Okano, M.P.

Taveta Constituency

**Wiper Democratic Movement-Kenya
(WDM-K)**

Hon. Peter Mbogho Shake, M.P.

Mwatate Constituency

Jubilee Party (JP)

Hon. Sloya Clement Logova, M.P.

Sabatia Constituency

United Democratic Alliance (UDA)

Hon. Suzanne Ndunge Kiamba, M.P.

Makueni Constituency

**Wiper Democratic Movement-Kenya
(WDM-K)**

1.3 COMMITTEE SECRETARIAT

The Public Petitions Committee is facilitated by the following secretariat:

Lead Clerk
Mr. Ahmed Kadhi
Senior Clerk Assistant

Ms. Anne Shibuko
First Clerk Assistant

Mr. Willis Obiero
Clerk Assistant III

Ms. Patricia Gichane
Legal Counsel II

Mr. Andrew Shangirai
Principal Sergeant at Arms

Ms. Lilian Mburugu
Media Relations Officer

Ms. Miriam Modo
First Clerk Assistant

Mr. Shadrach Omondi
Legal Counsel II

Mr. Martin Sigei
Research Officer III

Mr. Yezel Jilo
Sergeant at Arms

Ms. Rahab Chepkilim
Audio Officer

PART TWO

PETITION NO. 03 OF 2022 REGARDING DEGAZETTEMET OF HOLA IRRIGATION SCHEME LAND TO ALLOW FOR EXPANSION OF TANA RIVER COUNTY HEADQUARTERS

2.1. INTRODUCTION

1. Public Petition No. 3 of 2022 regarding Degazettement of Hola Irrigation Scheme Land to Allow for the Expansion of the County Headquarters of Tana River was presented on 8th November, 2022 by Hon. Said Buya Hiribae, MP. On behalf of the residents of Galole Constituency.
2. The Petitioners indicated that Hola Irrigation Scheme in Tana River County was gazetted on 26th April 1963 and covers an area approximately 12,630 acres. The scheme was initially used as a settlement scheme to settle thousands of Mau Mau freedom fighters and other residents of Tana River in the 1960s.
3. The geographical location of Hola Irrigation Scheme at the heart of Hola town had over the years proven to be disadvantageous to area residents because it continues to block the much-needed expansion of Hola Town, which is the headquarters of Tana River County.
4. The Petitioners averred that in a bid to address the long-standing challenge, various officials of; the National Government and the County Government of Tana River, National Irrigation Authority (NIA), Members of Parliament (MP), the National Land Commission (NLC), and other stakeholders met in Hola Town on 15th July 2021 and proposed to degazette 2,000 acres in the southern and eastern parts of the Scheme to facilitate expansion of Hola Town. The meeting further, proposed extension of the Scheme's northern borders by a similar acreage of 2,000 acres to compensate for the degazettement.
5. The proposed gazettement and replacement of the south-eastern segment of the Scheme would secure the expansion of Hola Town and Tana River County in general through economic, social, and infrastructural development that was hindered by the Scheme's location.

2.2. PETITIONER'S PRAYERS

The Petitioners prayed that the National Assembly through the Public Petitions Committee—

6. Intervenes to facilitate timely degazettement of 2,000 acres in the southern and eastern parts of Hola Irrigation Scheme to facilitate expansion of Hola Town, and facilitate extension of the Scheme's northern borders by a similar acreage of 2,000 acres; and
7. Makes any orders it deems fit in the consideration of the Petition.

PART THREE

STAKEHOLDERS' SUBMISSIONS ON THE PETITION

3.1. THE PETITIONER

The Hon. Said Buya Hiribaye, MP, appeared before the Committee on Tuesday, 22nd November, 2022 and submitted as follows—

8. The geographical location of Hola Irrigation Scheme at the centre of Hola Town was disadvantageous to the area residents as it blocked the much-needed expansion of Hola Town, which was the headquarters of Tana River County.
9. In a bid to address the long-standing challenge, officials of the National Government and the County Government of Tana River, National Irrigation Authority (NIA), Members of Parliament (Committee on Environment and Natural Resources), the NLC and other stakeholders met in Hola Town on 15th July 2021 and proposed to degazette 2,000 acres in the southern and eastern parts of the Scheme to facilitate expansion of Hola Town. The meeting further proposed extension of the Scheme's northern borders by a similar acreage of 2,000 acres so as to compensate for the degazettement.
10. The Committee needed to intervene to facilitate timely degazettement of 2,000 acres in the southern and eastern parts of Hola Irrigation Scheme to facilitate expansion of Hola Town, and to facilitate extension of the scheme's northern borders by a similar acreage of 2,000 acres.

3.2. NATIONAL LANDS COMMISSION

The Chairperson, NLC, Mr. Gershom Otachi appeared before the Committee on 15th August 2023 and submitted as follows—

3.2.1. Background

11. The land on which the Hola Irrigation Scheme was located was set aside under the Native Lands Trust Ordinance in 1959 through Gazette Notices 2714 and 2715. These set aside a total of 3307.5 acres. There were references to gazette notice of 26th April 1960 and 26th April 1963. The gazette notice of 26th April 1960 had several setting aside orders, but not for the Hola Irrigation Scheme. NLC had not been able to trace that of 26th April 1963 (only a reference to 23rd April 1963) and could ascertain the acreage set apart. However, there was consensus across the board that the scheme was given 12,360 acres.
12. The Commission through its County Coordination Office in Tana River County was participating in a multiagency engagement that the petitioners alluded to. There was an agreement to degazette 2,000 acres on the southern and eastern part of scheme to facilitate expansion of Hola Town. The scheme's northern border was to

be extended by a similar acreage of 2,000 acres to compensate for the degazettment.

3.2.2. Way Forward

13. Considering the issue of degazettment of the land and the extension of the scheme, questions arose whose answers inform the direction the process of expanding the municipality and compensating the Scheme as proposed would take.
14. Initially, *what would be required to support the degazettment?* There were proposals to amend the boundaries as captured to correctly reflect the ground situation. The NIA and the County Government should commission a survey to clearly demarcate the agreed portioning of the land. Prior to undertaking the survey, the County Government as the planning authority should plan the area. The plan ideally would be for the whole Municipality indicating the expansion, which surveyors will then use to have the survey work undertaken. The survey will be processed in line with the Survey Act.
15. Subsequently, *who should issue the degazettment orders?* The orders would be issued by the Cabinet Secretary, Ministry of Water, Sanitation, and Irrigation as NIA falls under the purview of the Ministry. NIA should consent to the degazettment. To support the degazettment of the scheme, as it exists and subsequent gazettment of the amended boundaries, the authenticated surveys should be used. Under the planning function, the County Government has powers to vary land reserved for public purposes, but with the exception that the variations should not lead to net loss of land reserved for public purposes as per revised plans. This principle appears to have been captured in the engagements that have been ongoing, that the scheme will cede 2,000 acres on the southern and eastern parts but gain 2,000 acres on the northern part. Once the land has been degazetted, the Commission upon request by the National or County Government will proceed to reserve and gazette the reservations in respect of the identified national and county public purposes.
16. Further, *will the expansion of the Scheme require compulsory acquisition of land in the northern extents of the Scheme?* The issue of compulsory acquisition would arise if the land identified in the northern parts is privately or communally held. In this respect, since the County Government is the one that needs the land for expansion, it should be the acquiring entity. The procedures for compulsory land acquisition are given in Part VIII of the Land Act, 2012. If the land is public, then the County Government as the holder will invoke Section 12 of the Land Act, 2012, and request the Commission to allocate or use Section 15 of the Act to reserve the planned and surveyed portion to NIA for the Hola Irrigation Scheme.
17. Finally, *what timelines and resources were required for degazettment and eventual expansion of the Municipality?* A lot of work has gone into the discussions and engagements, however, planning being participatory could take some more time and hence resources. Survey and its authentication processes takes time and needed to be properly considered. The process of compulsory acquisition required

time as there were statutory timelines in the various processes to be undertaken. There was need to budget for the exercise to ensure acquisition complied with Article 40 of the Constitution of Kenya, 2010. Additionally, the process of preparation of degazettment of the part to be ceded to the County Government for Hola Municipality and gazettment of the extension to the Scheme could be elaborate and may require Cabinet approval.

18. There was need to ensure that a solution to the squatter problem be explored and resolved as the matter of gazettment was under consideration.

3.3. MINISTRY OF WATER, SANITATION, AND IRRIGATION

The Principal Secretary, State Department for Irrigation Mr. Ephantus Kimotho appeared before the Committee on 27th June 2023 and submitted as follows—

19. Hola Irrigation scheme in Galole in Tana River County was established in 1953 and designated as a Special Settlement Area (SSA) through Gazette Notice No. 274 of 1963.
20. The gross scheme area was 12,630 acres while the area equipped with irrigation infrastructure was approximately 5,000 acres. There were 1,450 farmers in the scheme each allocated between two (2) to three (3) acres.
21. The Principal Secretary, Ministry for Water, Sanitation, and Irrigation visited Tana River County on 11th June 2021 where he met various stakeholders and area leaders including the Governor, Senator, and area Members of Parliament.
22. The Principal Secretary proposed that, the County Commissioner convenes a stakeholders forum comprising of the County Government, NIA, NLC representative and the elected leaders from the County to deliberate on the land issue.
23. The County Commissioner convened a meeting with stakeholders on the 15th July 2021 which was attended by all county executives led by the Governor and Members of Parliament.
24. They agreed to set up a sub-committee led by the Deputy County Commissioner Tana River and NLC as the secretary and tour the entire scheme land to establish its boundaries as indicated in the maps at the survey of Kenya, establish the extent of land encroachment and any other institution occupying the land.
25. The Ministry of Water, Sanitation and Irrigation would support any effort to improve the lives of the Holla Irrigation families as it awaits the recommendations of the committee to take further action.

3.4. SITE VISIT

26. The Committee conducted a site visit and a stakeholder engagement meeting in Hola Town on Friday 2nd June, 2023. During the site visit, the Committee met with various stakeholders as follows—

- i. The Petitioners led by Hon. Said Buya Hiribae, M.P, Galole Constituency;
- ii. County Government of Tana River represented by the Deputy Governor, H.E. Mahadh Ali Loka;
- iii. County Commissioner of Tana River, Mr. Omar Beja;
- iv. NIA represented by Mr. Daniel Atula, the Deputy General Manager;
- v. Hola Irrigation Scheme farmers represented by the Chairperson Mr. Shehe Bonaya;
- vi. Area Members of County Assembly (MCAs), the Hon. Hamisi Iddi Deye (Chewani Ward) (*Deceased*) and Hon. Hamid Salim Babusa (Kinakomba Ward); and
- vii. Hola Irrigation Scheme Management, represented by the Scheme Manager, Mr. James Kirigia.



Figure 1. Members of the Committee examining the map of the Hola Irrigation Scheme during the site visit



Figure 2. Members of the Committee engaging residents of Tana River County in Hola Town



Figure 3. The Committee engaging various stakeholders in a townhall meeting in Hola Town during the site visit

PART FOUR

COMMITTEE OBSERVATIONS

Following the submissions by the Petitioners, NLC, NIA, the Ministry of Water, Irrigation and Sanitation, the Committee observed that—

27. The Petitioners were praying for release of 2000 acres of land by NIA towards the southern and eastern side to allow for expansion of Hola Town and thereafter compensate with an equivalent acreage towards the northern side. That a total of 12,630 acres of land in Hola Irrigation Scheme belonged to NIA and were used for both irrigation development and settlement out of which 5,000 acres was not utilized.
28. The population of Hola Town, the headquarters of Tana River County was growing, and it was challenging to expand the town to accommodate modern spatial plan therefore the need for expansion was justifiable.
29. The NIA had agreed to cede the 2000 acres out of the 12,630 acres of lands to allow for expansion of the growing Hola Town and thereafter the CS Ministry of Lands and NLC would facilitate the Degazettement process.
30. A stakeholders' forum had been put in place by the County Commissioner comprising, NIA, NLC, and County Government to identify, map boundaries and targeted parcels and interested users of the land before recommending the specific areas of the land for degazettement out of the 12,630 acres.
31. The NIA being the owners of the land was not opposed to the process and the prayers in the Petition, provided due process would be followed through the consultative forum by the stakeholders' committee.
32. Farmers had already undertaken projects in part of the NIA land whereas, other residents had encroached the land and settled due to the growing population.
33. The farmers and other residents requested for more land allocation other than the 2000 acres to accommodate more infrastructural development such as schools and industrial zones and in order to address the issue of encroachment instead of evicting the people therein. Further, the people who had encroached the land had already undertaken settlement projects.

PART FIVE

ISSUES FOR DETERMINATION AS PER THE PRAYERS IN THE PETITION

Upon hearing from the Petitioners and other witnesses, the Committee makes determination on prayers sought in the Petition as follows—

Prayer No. 1

34. Degazettement of the Hola Irrigation Scheme, in the Southern and Eastern parts of the scheme for about 2000 acres to facilitate the expansion of Hola Town, the Tana River County headquarters and the extension of the Hola Irrigation Scheme's Northern border by 2000 acres to compensate for the de-gazettement within Hola Town.

The Committee notes that—

- i. The prayer for de-gazettement seeks the allocation of public land vested in the national government to the County Government of Tana River and its residents.
- ii. Public land may be converted to community land or private land in accordance with the provisions of section 12 of the Land Act.
- iii. Section 12(2) of the Land Act outlines the nature of public land that cannot be allocated. The NLC should firstly evaluate whether each of these parcels of land identified by the technical committee fall outside the scope of this criteria.
- iv. With the consent of the national government the NLC that administers all public land, can transfer public land from NIA to the County Government as provided for in the National Land Commission Act section 5(2)(a).
- v. The Land (Public Land) Allocation regulations 2017 provide for public land allocation by way of public auction, allocation to a targeted group of persons, public notice of tenders, public drawing of lots, public request for proposals and public exchange of private land of equal value.
- vi. If the request made by the CECM in charge of lands in Tana River County for part of the 2000 acres is for the setting aside land for investment purposes as provided for in section 12(3) of the Land Act, the transfer of the public land to the county should benefit local communities as a priority.
- vii. The NLC is mandated to initiate public consultations on a request for the setting aside land for investment purposes. Where the NLC is satisfied

that all conditions have been met, it will advise the county to undertake the planning, survey, geo-referencing of the parcels land.

- viii. The Irrigation Act, 2019 does not provide a specific procedure for redesignation of irrigation land or de-gazettement. Therefore, the procedure for designation of irrigation land as set out in section 16 of the Act may be applied as a guide. Therefore, the Cabinet Secretary of Water Sanitation and Irrigation should first consult with the Board of NIA and the NLC before issuing a gazette notice.
- ix. Regarding the re-designation of 2000 acres at the northern border of the Tana Irrigation Scheme as compensation, the proposal is not plausible as NIA is the custodian of the land. Therefore, there is no need for an exchange as prayed for in the petition. The Committee recommends that—
- (a) the County Executive Member in charge of Lands in Tana River County makes a formal application for public land allocation to the National Land Commission for the various parcels of land identified by the technical committee for de-gazettement;
 - (b) upon the approval by the National Land Commission for the allocation of each parcel of land to the County Government of Tana River and its residents, the approval by the Cabinet Secretary of Water, Sanitation and Irrigation and the Board of NIA is necessary for the redesignation of these parcels of land and the revocation of irrigation water permits by the Water Resources Authority (WRA); and
 - (c) after the re-designation of the parcels of land the NLC in adherence to the provisions of Statute and the Land (Public Land) Allocation Regulations 2017 may allocate the national public land of 2000 acres to the County Government for investment purposes.

PART SIX

COMMITTEE RECOMMENDATIONS

35. Pursuant to the provisions of Standing Order 227, the Committee recommends—

- i. **THAT the County Executive Member in charge of Lands in Tana River County makes a formal application for public land allocation to the National Land Commission for the various parcels of land identified by the technical committee for de-gazettement.**
- ii. **THAT upon the approval by the National Land Commission for the allocation of each parcel of land to the County Government of Tana River, the approval by the Cabinet Secretary of Water, Sanitation and Irrigation and the Board of NIA should redesignate the parcels of land and revoke irrigation water permits by the Water Resources Authority (WRA).**
- iii. **THAT subsequent to the re-designation of the parcels of land, the NLC in adherence to the provisions of Statute and the Land (Public Land) Allocation Regulations 2017 shall allocate the said public land of 2000 acres to the County Government for investment purposes.**

ANNEXURES

- Annex 1: Adoption List
- Annex 2: Petition No. 03 of 2022 Regarding De-gazettement of Hola Irrigation Scheme Land to Allow for Expansion of Tana River County Headquarters
- Annex 3: Minutes of the 2nd Sitting of the Committee (Third Session) held on Thursday, 15th February, 2024.
- Annex 4: Minutes of the 33rd Sitting of the Committee (Second Session) held on Tuesday, 27th June, 2023.
- Annex 5: Minutes of the 3rd Sitting of the Committee (First Session) held on Tuesday, 22nd November, 2022.
- Annex 6: Brief by NLC on Multiagency Engagements and Deliberations
- Annex 7: Maps prepared showing relationship between areas occupied by NIA and other entities



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – SECOND SESSION – 2023
PUBLIC PETITIONS COMMITTEE

**ADOPTION SCHEDULE OF THE REPORT ON CONSIDERATION OF PUBLIC
PETITION NO. 3 OF 2022 REGARDING DEGAZETTEMET OF HOLA IRRIGATION
SCHEME LAND**

DATE.....15TH FEBRUARY 2024.....

We the undersigned Honourable Members of the Public Petitions Committee, do hereby affix our signatures to this Report on the Consideration of **Public Petition No. 3 of 2022 regarding Degazettement of Hola Irrigation Scheme Land** to confirm our approval and confirm its accuracy, validity and authenticity:

S/NO	NAME	SIGNATURE
1.	Hon. Nimrod Mbithuka Mbai, M.P. Chairperson	
2.	Hon. Janet Jepkemboi Sitienei, M.P. Vice Chairperson	
3.	Hon. Patrick Makau King'ola, M.P.	
4.	Hon. Edith Vethi Nyenze, M.P.	
5.	Hon. Ernest Ogesi Kivai, M.P.	
6.	Hon. John Walter Owino, M.P.	
7.	Hon. Joshua Chepyegon Kandie, M.P.	
8.	Hon. Maisori Marwa Kitayama, M.P.	
9.	Hon. Bernard Muriuki Nebart, M.P.	
10.	Hon. Bidu Mohamed Tubi, M.P.	
11.	Hon. Caleb Mutiso Mule, M.P.	
12.	Hon. John Bwire Okano, M.P.	
13.	Hon. Peter Mbogho Shake, M.P.	
14.	Hon. Sloya Clement Logova, M.P.	
15.	Hon. Suzanne Ndunge Kiamba, M.P.	



CWA
Approved
SNA
8/11/22

Hon Speaker,
You may approve.
Wap Kimani 20/11/22

REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY (FIRST SESSION)

PUBLIC PETITION

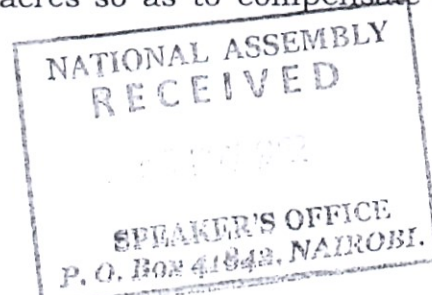
No. 003 of 2022

**REGARDING DEGAZETTEMMENT OF HOLA IRRIGATION SCHEME LAND TO
ALLOW FOR THE EXPANSION OF THE COUNTY HEADQUARTERS OF TANA
RIVER**

I, the **UNDERSIGNED** on behalf of residents of Galole in Tana River County;

DRAW the attention of the House to the following: -

- 1. THAT**, Hola Irrigation Scheme in Tana River County was gazetted on 26th April 1963 and covers an area approximately 12,630 acres;
- 2. THAT**, the scheme was initially used as a settlement scheme to settle thousands of Mau Mau freedom fighters and residents of Tana River in general in the 1960s;
- 3. THAT**, the geographical location of Hola Irrigation Scheme at the heart of Hola town has over the years proven to be disadvantageous to area residents in view of the fact that it continues to block the much needed expansion of Hola Town, which is the headquarters of Tana River County;
- 4. THAT**, in a bid to address this long-standing challenge, officials of the National Government and the County Government of Tana River, National Irrigation Authority, Members of Parliament, the National Land Commission and other stakeholders met in Hola Town on 15th July 2021 and mutually agreed to degazette 2,000 acres in the southern and eastern parts of the Scheme to facilitate expansion of Hola Town;
- 5. THAT**, the meeting further proposed extension of the Scheme's northern borders by a similar acreage of 2,000 acres so as to compensate for the degazettement;



**REGARDING DEGAZETEMENT OF HOLA IRRIGATION SCHEME LAND TO
ALLOW FOR THE EXPANSION OF THE COUNTY HEADQUARTERS OF TANA
RIVER**

- 6. **THAT**, the proposed degazettement and replacement of the south-eastern segment of the Scheme will secure the expansion of Hola Town and Tana River County in general through economic, social and infrastructural development that is presently hindered by the Scheme's current location;
- 7. **THAT**, efforts to have the matter by the relevant authorities have not yielded any fruit; and,
- 8. **THAT**, the issues in respect of which this Petition is made are not pending before any court of law, or other constitutional or legal body.

THEREFORE, your humble petitioners pray that the National Assembly, through the Public Petitions Committee;

- (i) intervenes to facilitate timely degazettement of 2,000 acres in the southern and eastern parts of Hola Irrigation Scheme to facilitate expansion of Hola Town, and to facilitate extension of the scheme's northern borders by a similar acreage of 2,000 acres; and,
- (ii) makes any further orders deemed fit in the circumstances of the Petition.

And your **PETITIONERS** will forever pray.

PRESENTED BY:
THE HON. SAID BUYA HIRIBAE, MP
MEMBER FOR GALOLE CONSTITUENCY

DATE:

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY (FOURTH SESSION)

PUBLIC PETITION

REGARDING THE EXPANSION OF HOLA TOWN COUNTY HEADQUARTERS
OF TANA RIVER

I, the **UNDERSIGNED** on behalf of residents of Galole in Tana River County;

DRAW the attention of the House to the following: -

1. **THAT**, the Ministry of Lands gazetted the Hola Irrigation Scheme covering approximately 12,630 Acres on the 26th day of 1963. The scheme is a settlement scheme, which settled Mau Mau freedom fighters in the 1960's and the residents of Tana River in general.
2. **THAT** the scheme, as it is currently situated has blocked the expansion of Hola town which is the Tana River county headquarters.
3. **THAT**, vide a stakeholder meeting held on 15th July, 2021 in Hola, involving National Government, County Government, National Irrigation Authority, Members of Parliament, National Land Commission and other stakeholders agreed that some portions of the scheme in the south and eastern parts of the scheme be degazetted by Parliament to allow for expansion of Hola town. It was further agreed that a team of experts be constituted to come up with a comprehensive report and recommendation regarding the same.

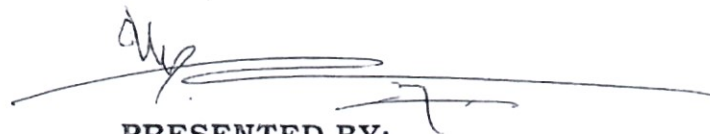
**REGARDING THE EXPANSION OF HOLA TOWN COUNTY HEADQUARTERS
OF TANA RIVER**

4. **THAT**, efforts made by the Petitioners to have the matter addressed have not been successful; and
5. **THAT**, the matters raised in this Petition are not pending before any Court of law, Constitutional or any other legal body.

THEREFORE, your humble Petitioners pray that the National Assembly through the Departmental Committee on Lands:

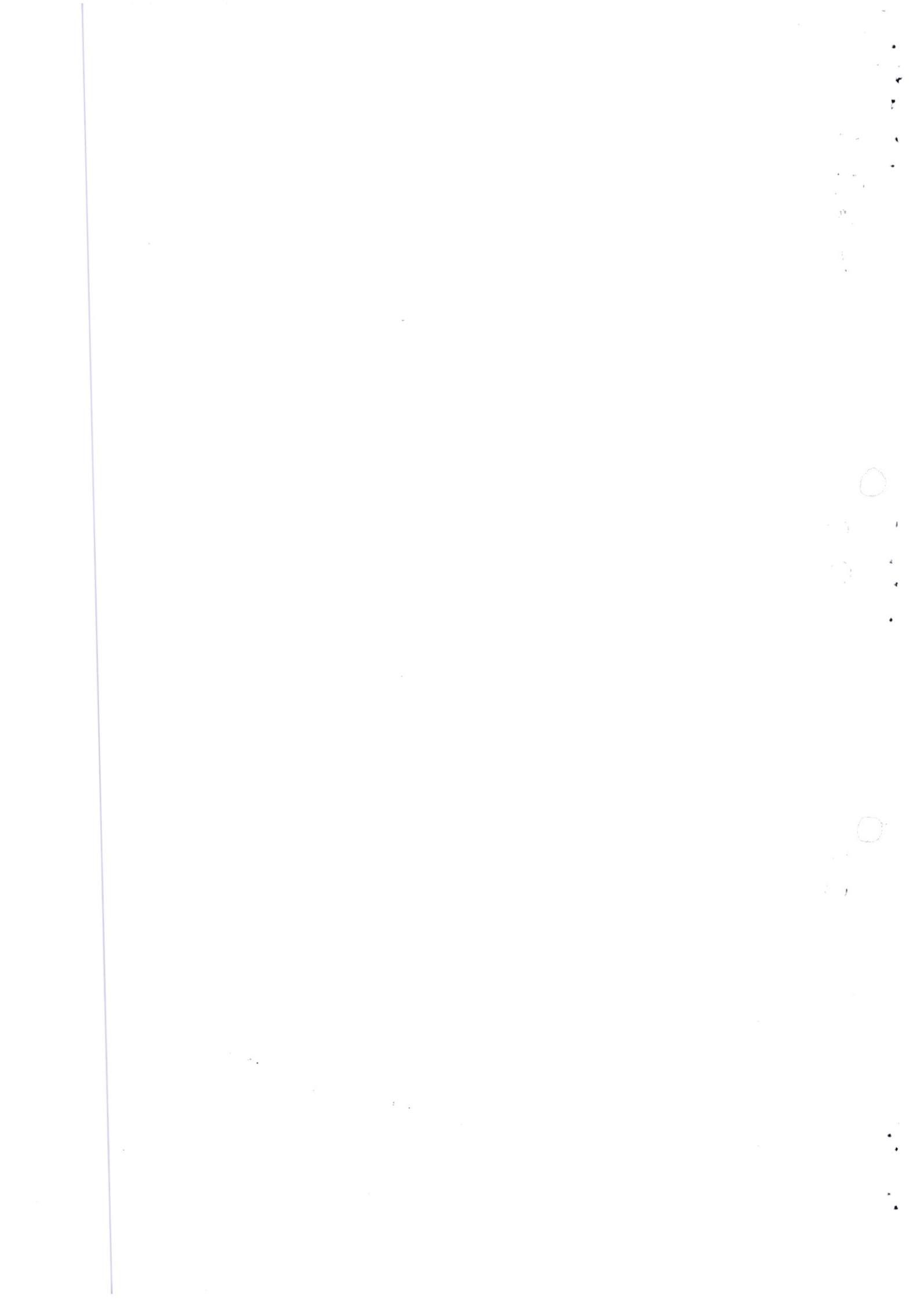
- (i) Recommends that 2000 Acres of land be extracted from the Eastern and Southern parts of the scheme to enable for the expansion of Hola Town;
- (ii) The boundary of the scheme be extended northward to compensate for the loss of the portion carved out for the town expansion.
- (iii) Makes any other appropriate recommendations it deems fit in addressing the circumstances raised in this Petition.

And your Petitioners will ever pray.



**PRESENTED BY:
THE HON. SAID BUYA HIRIBAE, MP
MEMBER FOR GALOLE CONSTITUENCY**

DATE: 11 / 10 / 2022



PUBLIC PETITION

REGARDING THE EXPANSION OF HOLA TOWN, COUNTY HEADQUARTERS OF TANA RIVER.

S/NO.	NAME OF PETITIONER	ID. NUMBER	CONTACT	SIGNATURE
1	SALIM AITMAN MARO	29239238	0716034823	
2	TIMONA DHIDHA MARO	0168862	0759069942	Timona
3	ACI DEYE HASSAN	29166710	0757633436	
4	WILSON C.T. KOMORA	0161033	0720740489	
5	RABAS JARHA MAKARITA	31165462	0706003011	Rab
6	Sammy W Komora	10951568	0716620364	
7	AYUB JARHA DOLO	12726285	0704770072	
8	Abasi Godhanga Hamisi	23457573	0794219222	Abas
9	ABDULSTUKELI-R. HERO	8064066	0790781204	
10	OMAR ALI MALIMU	22155270	0726263776	
11	SALIM KOMORA DEYE	0169755	0103718722	
12	TOASH MARO WAYU	22563699	0768272622	
13	OMAR BALANJI HUSSEIN	31883468	0798631069	
14	RAMADHAN KOFFA OMAR	13408656	0725493122	
15	SALIM GARNALOKI MCHWAL	33038486	0757202617	SAA
16	SAMMY H. KOMORA	5446507	0723804195	
17	MUSANANISI H. ALI	23383806		
18	JENSA HALAKO HIRAE	2921041	0799457536	
19	AMINA HALAKO SYMPHAN	12726098	0702861754	AHR

20	HAZIJA G. SAID	24301828	0797991263	x Handwritten
21	RAHEL G. KOMORA	53744721	0757579872	- Handwritten
22	EHGATA B. KOMORA	23270527	0714690201	Handwritten
23	RAMAHLANI A. SAID	5474613	0715497745	Handwritten
24	AMINA HASSANI	34214446	0795278734	AS
25	RUFH NARZUMI	29221087	0712442194	AT
26	DESIEMA GATAMAZOXY SOTO	28255265	0795870377	Class
27	NOHAMMO WASILY KARHATHY	33563938	0705728144	Handwritten
28	AMINA GUTAGO ALO	5374551	0711592911	Handwritten
29	MUWANANISI G. ADE	3922737	0716034823	Handwritten
30	SHARIFA M. SAID	23611231	0741649530	Handwritten
31	AMINA HAWWA SAID	23271049	0743296171	AMINIA
32	NOHAMMO SAID WATHY	31364417	0726080229	Handwritten
33	NURU HARZOLA DOTO	42348083	0759688429	Handwritten
34	SALIMA HAMMO HASSANI	30418309	0113086390	Handwritten
35	OMAR ABITHY KARHATHY	23267399	011643000	Abba
36	OMAR WATHY BAKAR	32032546	0717058835	Handwritten
37	HAZIJA HADIRA RAMAD	33040218	0740501229	Handwritten
38	MUWANANISI M. MARO	0168468	0713541864	MAR
39	OMAR ADE BAKAR	3926143	0708612480	ADE
40	HAZIJA GUTASAI	243018		

40 MUWANANISI M. ALI 23385806 0714942874



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

MINUTES OF THE 2ND SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON THURSDAY, FEBRUARY 15, 2024, IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 12.00 NOON

PRESENT

1. Hon. Ernest Ogesi Kivai, M.P. - Chairing
2. Hon. Joshua Chepyegon Kandie, M.P.
3. Hon. John Walter Owino, M.P.
4. Hon. (Eng.) Bernard Muriuki Nebart, M.P.
5. Hon. Edith Vethi Nyenze, M.P.

APOLOGIES

1. Hon. Nimrod Mbithuka Mbai, M.P. - Chairperson
2. Hon. Janet Jepkemboi Sitienei, M.P. - Vice Chairperson
3. Hon. Patrick Makau King'ola, M.P.
4. Hon. Maisori Marwa Kitayama, M.P.
5. Hon. Bidu Mohamed Tubi, M.P.
6. Hon. Caleb Mutiso Mule, M.P.
7. Hon. Peter Mbogho Shake, M.P.
8. Hon. Suzanne Ndunge Kiamba, M.P.
9. Hon. John Bwire Okano, M.P.
10. Hon. Sloya Clement Logova, M.P.

SECRETARIAT

1. Mr. Ahmed Kadhi - Senior Clerk Assistant
2. Ms. Anne Shibuko - First Clerk Assistant
3. Mr. Willis Obiero - Third Clerk Assistant
4. Ms. Patricia Gichane - Legal Counsel II
5. Mr. Martin Sigei - Research Officer III
6. Mr. Peter Mutethia - Audio Officer III

MIN./PPETC/2024/ 008: PRELIMINARIES

The Chairperson called the meeting to order at 12:00 noon. Proceedings began with prayers by Hon. (Eng.) Bernard Muriuki Nebart, M.P.

MIN./PPETC/2024/009:

ADOPTION OF AGENDA

AGENDA

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of previous sittings
4. Matters Arising
5. Consideration and Adoption of the Report of Public Petition No. 3 of 2022 Regarding Degazettement of Hola Irrigation Scheme Land
6. Any Other Business
7. Adjournment

The Agenda was adopted to constitute business having been proposed by Hon. (Eng.) Bernard Muriuki Nebart, M.P. and seconded by Hon. Edith Vethi Nyenze, M.P.

MIN./PPETC/2024/010:

CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

Minutes of the 1st sitting held on Tuesday, 15th February 2024 were confirmed, having been proposed by Hon. Edith Nyenze, MP and seconded by Hon. Walter Owino, MP.

MIN./PPETC/2024/011:

CONSIDERATION AND ADOPTION OF THE REPORT OF PUBLIC PETITION NO. 3 OF 2022 REGARDING DEGAZETTEMENT OF HOLA IRRIGATION SCHEME LAND

The secretariat took the Committee through the draft report on Public Petition No. 3 of 2022 regarding Degazettement of Hola Irrigation Scheme Land.

Committee Concerns

- i. On whether it was the mandate of the Committee or of the Tana River County Government to follow up with the National Land Commission, it was clarified that the County Government would follow up on the matter. The CECM in charge of lands would make a formal application to NLC for public land allocation to the National Land Commission for the various parcels of land identified by the technical committee for de-gazettement.
- ii. Regarding the changes made to the report as earlier requested by the Committee, it was clarified that in the first draft, the third recommendation was captured as follows:

“THAT, subsequent to the re-designation of the parcels of land the NLC in adherence to the provisions of Statute and the Land (Public Land) Allocation Regulations 2017 shall allocate the said public land of 2000 acres to the County Government for investment purposes and to the specified targeted groups of persons or residents of Tana River County to establish the settlement scheme.”

However, in the final draft, the recommendation was amended as per the advice of the Committee that the issue regarding specified targeted groups of

persons was not part of the prayers. The recommendation therefore read as follows:

“THAT subsequent to the re-designation of the parcels of land, the NLC in adherence to the provisions of Statute and the Land (Public Land) Allocation Regulations 2017 shall allocate the said public land of 2000 acres to the County Government for investment purposes.”

The Committee considered and adopted the Report with the following recommendations—

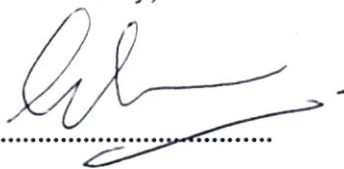
- i. THAT the County Executive Member in charge of Lands in Tana River County makes a formal application for public land allocation to the National Land Commission for the various parcels of land identified by the technical committee for de-gazettement.
- ii. THAT upon the approval by the National Land Commission for the allocation of each parcel of land to the County Government of Tana River, the approval by the Cabinet Secretary of Water, Sanitation and Irrigation and the Board of NIA should redesignate the parcels of land and revoke irrigation water permits by the Water Resources Authority (WRA).
- iii. THAT subsequent to the re-designation of the parcels of land, the NLC in adherence to the provisions of Statute and the Land (Public Land) Allocation Regulations 2017 shall allocate the said public land of 2000 acres to the County Government for investment purposes.

The Chairperson ruled that deliberations were closed and Secretariat avail the final report for Members to append the signatures.

MIN./PPETC/2024/012:

ADJOURNMENT AND DATE OF NEXT MEETING

There being no other business, the Chairperson adjourned the meeting at 1:30 p.m. to Tuesday, 22nd February, 2024 at 12.00 p.m.

Sign: 

(CHAIRPERSON)

Date.....20-02-2024.....



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

MINUTES OF THE 33RD SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON TUESDAY, JUNE 27, 2023, IN THE NATIONAL ASSEMBLY CHAMBER AT 10:00 AM

PRESENT

- | | | |
|---------------------------------------|---|-------------|
| 1. Hon. Nimrod Mbithuka Mbai, M.P. | - | Chairperson |
| 2. Hon. John Walter Owino, M.P. | | |
| 3. Hon. Ernest Ogesi Kivai, M.P. | | |
| 4. Hon. Edith Vethi Nyenze, M.P. | | |
| 5. Hon. Joshua Chepyegon Kandie, M.P. | | |
| 6. Hon. Maisori Marwa Kitayama, M.P. | | |

APOLOGIES

- | | | |
|---|---|------------------|
| 1. Hon. Janet Jepkemboi Sitienei, M.P. | - | Vice Chairperson |
| 2. Hon. Patrick Makau King'ola, M.P. | | |
| 3. Hon. Bidu Mohamed Tubi, M.P. | | |
| 4. Hon. (Eng.) Bernard Muriuki Nebart, M.P. | | |
| 5. Hon. Suzanne Ndunge Kiamba, M.P. | | |
| 6. Hon. Caleb Mutiso Mule, M.P. | | |
| 7. Hon. Peter Mbogho Shake, M.P. | | |
| 8. Hon. John Bwire Okano, M.P. | | |
| 9. Hon. Sloya Clement Logova, M.P. | | |

IN ATTENDANCE

MINISTRY OF WATER, SANITATION AND IRRIGATION – STATE DEPARTMENT FOR IRRIGATION

- | | | |
|-------------------------|---|---------------------------------------|
| 1. Mr. Ephantus Kimotho | - | Principal Secretary |
| 2. Mr. Aboud Moeva | - | Secretary |
| 3. Eng. Charles Muasya | - | Ag. CEO National Irrigation Authority |
| 4. Mr. Stephen Nyasa | - | Personal assistant |

SECRETARIAT

- | | | |
|-------------------------|---|-----------------------------|
| 1. Mr. Samuel Kalama | - | Principal Clerk Assistant |
| 2. Ms. Anne Shibuko | - | Clerk Assistant I |
| 3. Mr. Willis Obiero | - | Clerk Assistant III |
| 4. Mr. Shadrack Omondi | - | Legal Counsel II |
| 5. Ms. Patricia Gichane | - | Legal Counsel II |
| 6. Mr. Martin Sigei | - | Research Officer III |
| 7. Ms. Lilian Mburugu | - | Media Relations Officer III |
| 8. Mr. Gabriel Lengasi | - | Audio Officer |

MIN./PPETC/2023/212: PRELIMINARIES

The Chairperson called the meeting to order at 10.15 a.m. and Hon. Ernest Kagesi, M.P. said the prayers.

MIN./PPETC/2023/213: ADOPTION OF AGENDA

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of Previous Sittings
4. Matters Arising
5. **Consideration of Petition regarding Degazettment of Hola Irrigation Scheme**
-Meeting with the Principal Secretary, State Department for Irrigation
6. **Consideration of Petition regarding Pollution of River Athi**
-Meeting with Water Resources Authority (WRA)
7. **Consideration of Petition regarding Ward Based Solution as a long-term remedy to perennial water shortage in Kenya**
-Meeting with Council of Governors
8. Any other Business
9. Adjournment & Date of Next Meeting

The proposed Agenda of the Meeting was adopted to constitute business having been proposed by Hon. Marwa Kitayama, M.P. and seconded by the Hon. Walter Owino, M.P.

MIN./PPETC/2023/214: CONFIRMATION OF MINUTES OF PREVIOUS SITTING

Minutes of the 32nd Sitting of the Committee held on 20th June, 2023 were confirmed after being proposed by Hon. Maisori Marwa, MP and seconded by Hon. Edith Nyenze, M.P.

MIN./PPETC/2023/215: MATTERS ARISING

There were no matters arising.

MIN./PPETC/2023/216: MEETING WITH THE PRINCIPAL SECRETARY, STATE DEPARTMENT FOR IRRIGATION (HON. EPHANTUS KIMANI)

Submissions by the Ministry of Water, Sanitation and Irrigation

The Principal Secretary, State Department for Irrigation appeared before the Committee and submitted as follows on behalf of the Cabinet Secretary-

- 1) Hola Irrigation Scheme is in Galole in Tana River County and was established in 1953. The area was designated as special Settlement area through Gazette Notice No. 274 of 1863. The gross scheme area is 12,630 acres while the area equipped with irrigation infrastructure is approximately 5,000 acres. There are 1,450 farmers in the scheme each allocated between two (2) to three (3) acres.
- 2) The Member for Galole Constituency, Hon. Said Buya Hiribae, MP presented a Public Petition to the National Assembly on behalf of the residents of Galole Constituency, Tana River County regarding degazettment of 2,000 acres of land in Hola Irrigation Scheme for expansion of Hola Town, and to compensate for this degazettment through extension of the scheme's northern border by a similar acreage of 2,000 acres.

- 3) The Principal Secretary, Ministry of Water, Sanitation and Irrigation visited Tana River County on 11th June 2021 where he met various stakeholders and area leaders including the Governor, the Senator, and the Members of Parliament from Galole and Garsen. It is from that visit, that the Principal Secretary guided the County Commissioner to convene a stakeholder's forum comprising of the County Government, National Irrigation Authority, National Lands Commission representative and the elected leaders from the county to deliberate on the said issue.
- 4) The County Commissioner convened the first meeting with stakeholders on 15th July 2021 which was attended by all county executives led by the Governor and the Members of Parliament. The meeting discussed at length all the issues and finally agreed to set up a subcommittee led by the Deputy County Commissioner, Tana River and National Land Commission as secretary. The subcommittee was to tour the entire scheme land to establish its boundaries as indicated in the maps at the survey of Kenya, establish the extent of land encroachment and any other institution occupying the land.
- 5) The exercise was meant to inform the relevant authorities the actual status of the land for them to make an informed decision about the requested land.
- 6) The Departmental Committee on Environment and National Resources visited the county in December, 2021 for a public hearing on the petition and since that visit, the technical subcommittee conducted several meetings and is at the tail end of its considerations. The office of the CS has requested the DCC Tana River to expedite the remaining work.
- 7) The Ministry will support any efforts to improve the lives of Hola Irrigation Scheme families and is still awaiting the outcome of the committee recommendations in order to take further action.

Committee Concerns

- 1) The Committee enquired on the *ownership of the land that was to be compensated to NIA*. It was clarified that the land belonged to the community under the custody of the County Government of Tana River.
- 2) The Committee asked for an explanation on the *process that would lead to degazettment*. It was explained that the first step is discussions between the Cabinet Secretary, Ministry of Water and Sanitation and the National Land Commission. A Cabinet Memo would then be generated and afterwards the Cabinet Secretary would write to the National Land Commission for degazettment to take place.
- 3) The Committee observed that only 2,000 out of the 12,630 acres of the land under the Hola Irrigation Scheme was being utilised and enquired whether unutilised land can be given to the community. The Principal Secretary explained that it was not possible for the country to purely rely on rain fed agriculture. The Ministry needed more land to meet demand of food as well as curb the effects of climate change. The Ministry got part of its funding from private sector investment.
- 4) The Committee sought clarification on whether the National Irrigation Authority was in support of the degazettment process. It was confirmed that the Authority was not an impediment to the prayers as space for the proposal was present. In addition, the exchange of land would make the project more viable as its success was dependent on the community around the area.

- 5) The Committee was concerned that the process had taken rather long, especially because the Petition had been filed in the previous Parliament and the Ministry was aware of the matter and had begun the process. The PS explained that the process was initially driven by the County Commissioner who had succeeded in identification of the area from which to map the 2,00 acres. The process had taken long as survey of the land that was encroached and measurement of the underutilised section of the scheme was a consultative process. However, the final report from the Ministry would be expected in a month's time.

Committee Observations

After engaging the PS, State Department for Irrigation, the Committee observed that:

- a. Most Irrigation Schemes were set up when population was low. Many similar prayers of degazettment were bound to come up due to growing population and therefore need for additional land for settlement.
- b. Hola Irrigation Scheme should be prioritised as most residents around it relied on livestock farming for their livelihood.

MIN./PPETC/2023/217: CONSIDERATION OF PETITION REGARDING POLLUTION OF RIVER ATHI.

Meeting with Water Resources Authority (WRA)

The meeting was informed that the CEO of WRA had requested that his appearance before the Committee be rescheduled to a later date due to exigencies of work. In the meantime, WRA had sent a written submission to enable the Committee proceed with the consideration of the Petition.


MIN./PPETC/2023/218: CONSIDERATION OF PETITION REGARDING WARD BASED SOLUTION AS A LONG-TERM REMEDY TO PERENNIAL WATER SHORTAGE IN KENYA

Meeting with Council of Governors (COG)

The Committee was briefed that the Chairperson, Council of Governors was unable to appear before the Committee but had sent a written submission to enable the consideration of the Petition.

MIN./PPETC/2023/219: ADJOURNMENT AND DATE OF THE NEXT MEETING

There being no other business, the Chairperson adjourned the meeting at 12:00 noon. The next meeting would be held on Tuesday, 4th July 2023.

Sign: 

(CHAIRPERSON)

Date: 8/07/2023



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

MINUTES OF THE THIRD SITTING OF THE PUBLIC PETITIONS COMMITTEE
HELD ON TUESDAY, NOVEMBER 22, 2022, IN THE COMMITTEE ROOM,
CONTINENTAL HOUSE, 4TH FLOOR AT 10:00 AM

PRESENT

- | | | |
|--|---|------------------|
| 1. Hon. Nimrod Mbithuka Mbai, M.P. | - | Chairperson |
| 2. Hon. Janet Jepkemboi Sitienei, M.P. | - | Vice Chairperson |
| 3. Hon. Patrick Makau King'ola, M.P. | | |
| 4. Hon. Joshua Chepyegon Kandie, M.P. | | |
| 5. Hon. John Walter Owino, M.P. | | |
| 6. Hon. Ernest Ogesi Kivai, M.P. | | |
| 7. Hon. Maisori Marwa Kitayama, M.P. | | |
| 8. Hon. Edith Vethi Nyenze, M.P. | | |
| 9. Hon. Caleb Mutiso Mule, M.P. | | |
| 10. Hon. Peter Mbogho Shake, M.P. | | |
| 11. Hon. Bidu Mohamed Tubi, M.P. | | |
| 12. Hon. Suzanne Ndunge Kiamba, M.P. | | |
| 13. Hon. John Bwire Okano, M.P. | | |
| 14. Hon. Sloya Clement Logova, M.P. | | |

ABSENT WITH APOLOGIES

Hon. Bernard Muriuki Nebart, M.P.

IN-ATTENDANCE

Hon. Said Buya Hiribae, M.P.

SECRETARIAT

- | | | |
|------------------------------|---|------------------------------|
| 1. Mr. Samuel Kalama | - | Principal Clerk Assistant II |
| 2. Mr. Willis Obiero | - | Clerk Assistant III |
| 3. Mr. Sidney Lugaga | - | Senior Legal Counsel |
| 4. Ms. Patricia Gichane | - | Legal Counsel II |
| 5. Mr. Martin Sigei | - | Research Officer III |
| 6. Ms. Lilian Kiende Mburugu | - | Media Relations III |
| 7. Mr. Cosmas Akhonya | - | Audio Officer II |

MIN./PPETC/2022/14: PRELIMINARIES

The Chairperson called the meeting to order at 10.05 a.m. and said the prayer. Members of the Committee introduced themselves and, thereafter the officers comprising of the Secretariat did a round of introductions.

MIN./PPETC/2022/15: ADOPTION OF THE AGENDA

The proposed Agenda was proposed by the Hon. Ernest Ogesi Kivai, M.P. and seconded by the Hon. Peter Mbogho Shake, M.P to constitute business for the meeting.

MIN./PPETC/2022/16: CONFIRMATION OF MINUTES OF PREVIOUS MEETING

The minutes of the 2nd Sitting held on Tuesday, November 15, 2022 were confirmed as a true record of the deliberations of the meeting, having been proposed by Hon. Maisori Marwa Kitayama, M.P. who was seconded by the Hon. John Walter Owino, M.P.

MIN./PPETC/2022/17: MATTERS ARISING

- 1) Arising from **MIN./PPETC/2022/11 (ii)** on the duration of ninety (90) Calendar days the Committee has to consider a Petition, members were informed that before the House adjourns, the Speaker will be advised to stop the count and resume in the next session.
- 2) Arising from **MIN./PPETC/2022/12 (i)** on formation of sub-committees, the Committee agreed not to form sub-committees in the earlier stages but do so once the members are well apprised with the mandate of the Committee.

**MIN./PPETC/2022/18: CONSIDERATION OF A PUBLIC PETITIONS
REGARDING DEGAZETEMENT OF HOLA
IRRIGATION SCHEME LAND TO ALLOW FOR THE
EXPANSION OF THE COUNTY HEADQUARTERS OF
TANA RIVER**

- 1) **Presentation by the Hon. Said Buya Hiribae, M.P., on behalf of the people of Galole Constituency**

The Hon. Said Buya Hiribae, M.P., informed the Committee that:

- (a) The geographical location of Hola Irrigation Scheme at the heart of Hola town has over the years proven to be disadvantageous to area residents in view of the fact that it continues to block the much-needed expansion of Hola Town, which is the headquarters of Tana River County;
- (b) In a bid to address this long-standing challenge, officials of the National Government and the County Government of Tana River, National Irrigation Authority, Members of Parliament (Committee on Environment and Natural Resources), the National Land Commission, County Government of Tana River, and other stakeholders met in Hola Town on 15th July 2021 and mutually agreed to degazette 2,000 acres in the southern and eastern parts of the Scheme to facilitate expansion of Hola Town;

- (c) The meeting further proposed extension of the Scheme's northern borders by a similar acreage of 2,000 acres so as to compensate for the degazettement;
- (d) The Committee needs to intervene to facilitate timely degazettement of 2,000 acres in the southern and eastern parts of Hola Irrigation Scheme to facilitate expansion of Hola Town, and to facilitate extension of the scheme's northern borders by a similar acreage of 2,000 acres

2) The Brief by the Legal Counsel

The Legal Counsel presented a brief on the Petition (*See attached Brief on the Petition*) as follows-

(a) Applicable legal provisions

The Legal Counsel noted that Articles 61(1)(b), 62(2)(b), 62(3), and 62(4), the Land Act, the National Land Commission Act, the Land (Allocation of Public Land) Regulations 2017, and the Irrigation Act No. 19 of 2019 were the key applicable legal provisions in the consideration of the Petition.

(b) Analysis

- (i) The Hola Irrigation Scheme is a public land vested in the national government and administered by the National Land Commission (NLC) but presently owned by the National Irrigation Authority;
- (ii) The consent of the National Government through NLC can effect transfer as provided for in section 5 of the National Land Commission Act;
- (iii) The re-designation of the 2000 acres can also be effected as provided for in section 12(1)(f) of the Irrigation Act; and
- (iv) The Committee should collect the views of local communities, Ministry of Water Sanitation and Irrigation, Ministry of Lands, and relevant agencies.

3) Committee's concerns

- (a) The Committee's mandate regarding recommendations/orders on the issues raised in the Petition

The Committee tasked the secretariat to present a comprehensive guide on how the Committee can handle the Petition and the kind of recommendations it can make to address issues raised in the Petition. The guide to be presented in the meeting on Tuesday 29th November, 2022.

(b) Similar Petition presented in the 12th Parliament

The Committee agreed that all relevant reports regarding the Petition as pursued previously be looked into. The Secretariat was tasked to do comprehensive research on the history of the

Petition and establish how far the previous Committee on Environment and Natural Resources had gone with the matter.

(c) Justification for the degazettement and plan for the 2000 acres

The Committee agreed to engage the technical team involved in the matter to address the technical questions related to the Hola Irrigation Scheme land to understand the background of the issues, the justification and plan for the 2000 acres being requested.

4) Committee resolutions

The Committee resolved as follows:

- (a) Undertake a site visit to the Hola Irrigation Scheme to interact with the issues surrounding the petition, and meet with the stakeholders on the ground to enable it to pursue the matter to finality.
- (b) Invite the relevant ministries and agencies after the site visit to make their submissions on Petition.

MIN./PPETC/2022/19: ANY OTHER BUSINESS

The Committee underscored the need to have a designated committee room for use by the Committee to avoid unnecessary interruptions by other committees.

MIN./PPETC/2022/20: ADJOURNMENT AND DATE OF THE NEXT MEETING

The Chairperson adjourned the meeting at 12.15 p.m. The date of the next meeting would be on Thursday 24th November, 2022.



Sign:

(CHAIRPERSON)

Date..... 24 / 11 / 2022

Brief on Multiagency Engagements and Deliberations

Hon Chair, multiagency engagements have been ongoing in Tana River County aimed at finding a lasting solution on the matter. The agencies involved include: The County Commissioner's office (with the County Commissioner as the Chair), the National Irrigation Authority, County Surveyor, Land Registrar, National Police Service, County Government, Land Adjudication and Settlement office and the National Land Commission County Coordination Office. This was the culmination of several meetings held over time to address emerging issues on the piece of land held by National Irrigation Authority (NIA), and a follow up to a visit by the then Principal Secretary in the Ministry of Water and Irrigation, the NIA Board and campaigns by the County Government to get land to expand Hola Township.

Hon Chair, as you may be aware, there have been confrontations between the NIA Tana officers and encroachers/squatters who were putting up developments within the NIA land. Public demonstrations and incidents of trespass were also threatening the security situation. In order to provide a way out, the team adopted the following terms of reference: -

- a) Validate/Verify the boundary of the NIA land parcel using the Survey of Kenya Boundary Map that informed the gazettement of the land for irrigation and settlement.
- b) Verification of the area presently occupied and/or claimed by NIA on the ground.
- c) Interpretation of the differences between the area indicated by the Survey of Kenya Boundary Map and the Ground status as occupied/claimed by NIA.
- d) Verification of any formal and informal commitments (village settlements, commercial developments, residential developments, Government offices, installations and institutions, infrastructural developments etc) within the identified S.O.K. Boundary Map.
- e) Analysis of the acreage affected within the NIA boundary

Hon Chair, in undertaking the tasks defined in the Terms of References (ToRs), a number of maps were prepared during the engagements and these are provided in in **Annex II** of these Annexures. On the basis of analysis done, the acreage claimed by NIA was determined to be 6,313ha against 5,160ha as depicted from Survey of Kenya survey plan.

Hon Chair, the land in question has multiple uses which have been created over time. These various uses include: -

: Maps prepared showing relationship between areas occupied by NIA and other entities

The team defined the Survey of Kenya boundary shown in a different colour to the boundary as known by the NIA Tana River officials (Figure 1).

They also depicted the blocks designed by the NIB and the infrastructural developments including irrigation blocks, out-grower areas, canals and other drainage works, the dams and other water reservoirs, the settlement areas, the staff housing, stores, ginneries, schools, roads of access, pump houses and other existing developments (Figure 2). The areas reserved for future NIA developments including a commercial block, block for livestock development, block for future irrigation development and new water intake and water supply wayleave have been depicted.

An overlay with planning initiatives including the Part Development Plan for Kasarani, Zubaki, Proposed Kalaule/Hola Mission/Malindi ya Ngwena Plan, Wachakone Development Plan, County Headquarters plan etc. Google Maps overlays of the extent of formal and informal developments (figure 3).

The Gazetted Municipal boundary plan of Hola was also shown (Figure 4).

Chewani/Wachakone center was flagged out as an area that is vibrant with high potential for low/medium density residential growth and related commercial activities. In this area, schools, health center, churches and ECDs have already been developed. This area has also been planned by the defunct local authorities and the present County Government. Since it forms part of the area identified by the NIA Tana Scheme for Commercial farming under Blocks 'D &E' a compromise was sought and the area near the main Hola - Bura road measuring 1,220 acres with existing commitments and/or developments (Figure 5). It was proposed to be released for growth of Hola Town. The acreage has been amended to allow for the areas already planned and programmed by the NIA to be left within the irrigation spaces.

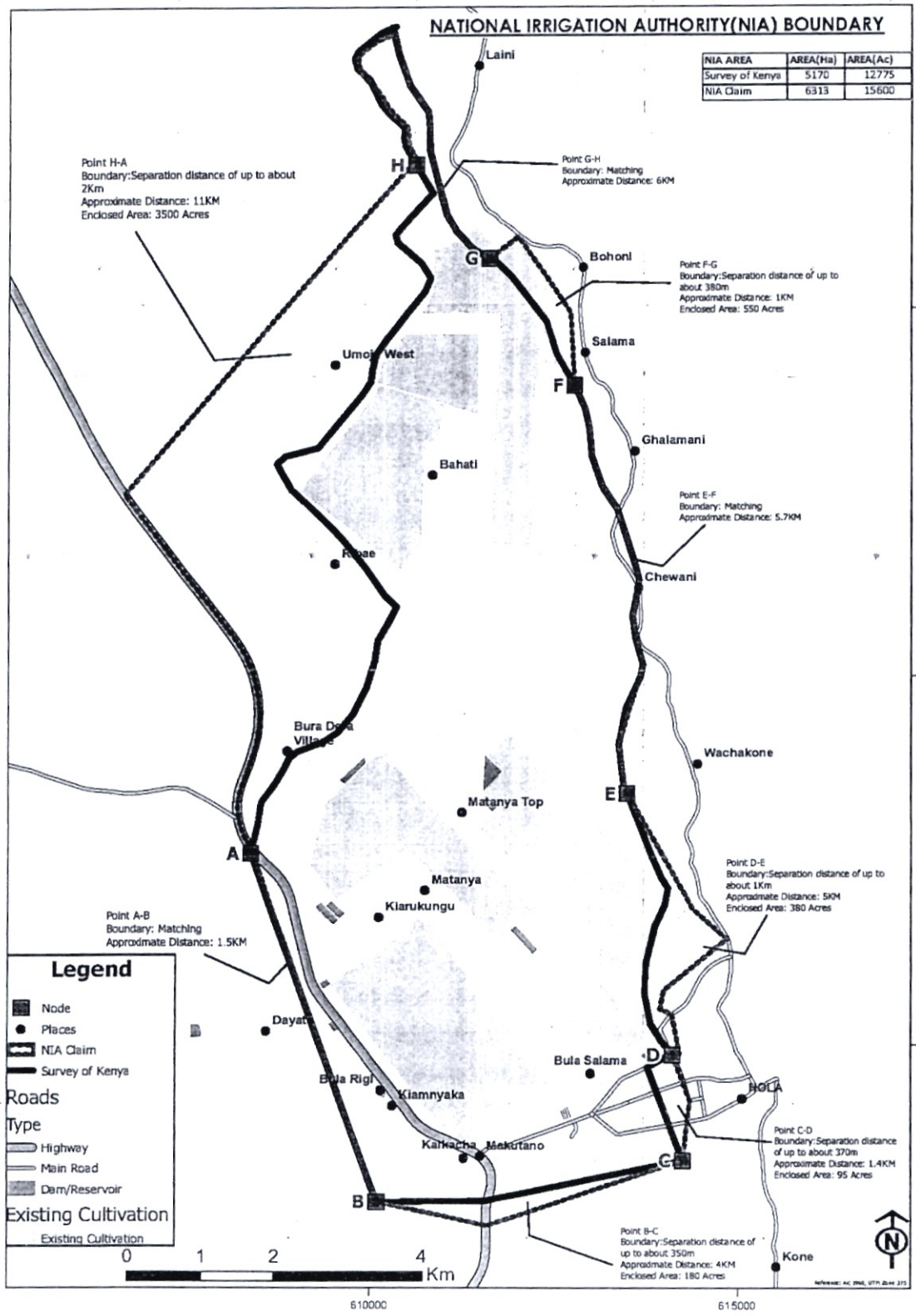


FIGURE 1 AREA COVERED BY NIA VS SURVEYED BOUNDARY

GENERAL SCHEME LAYOUT

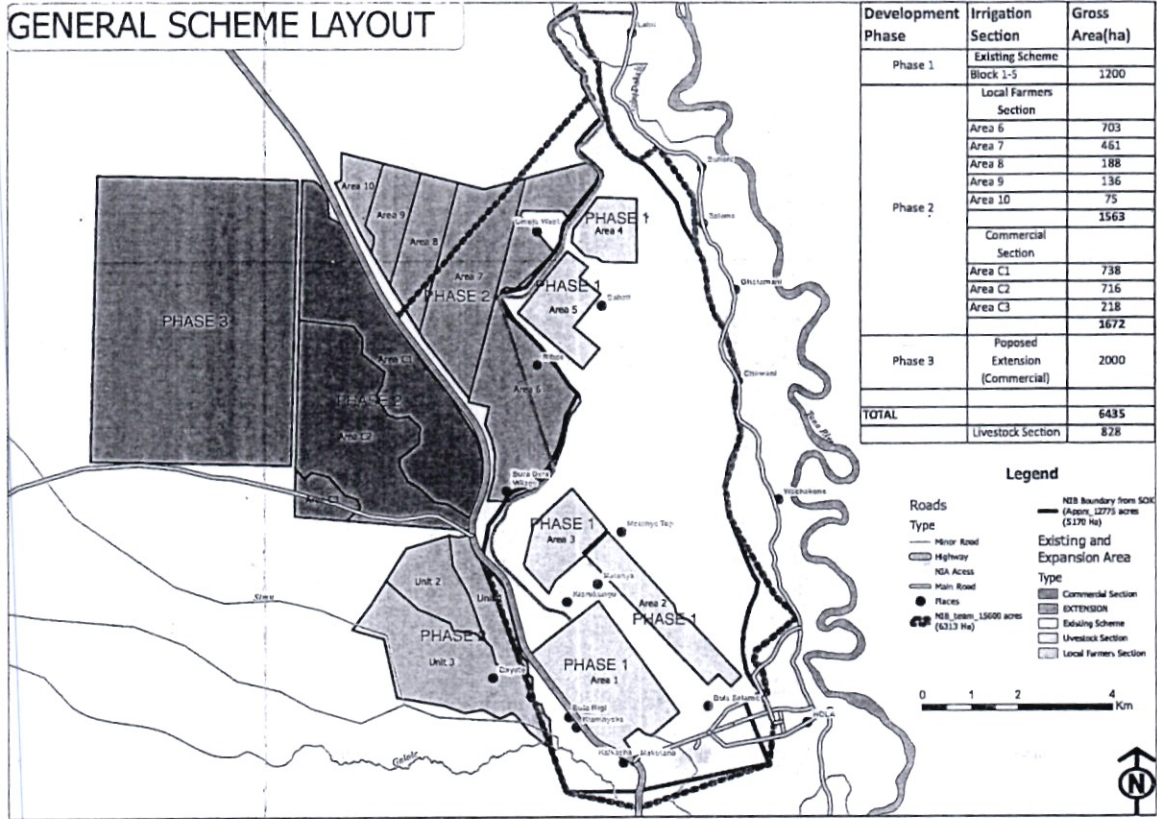


FIGURE 2 THE SITUATION AS EXISTING

NIA SITUATION CONTEXT

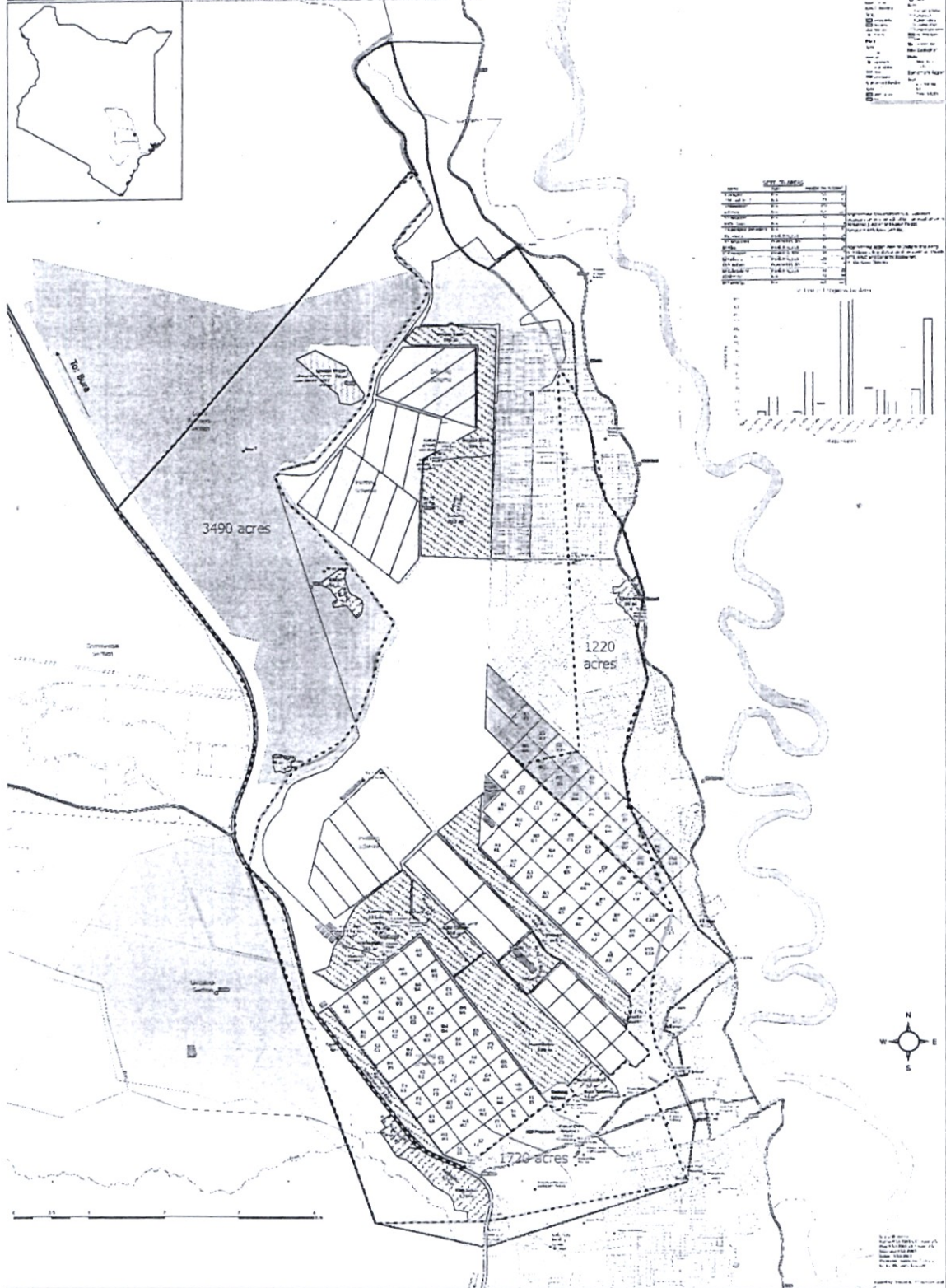
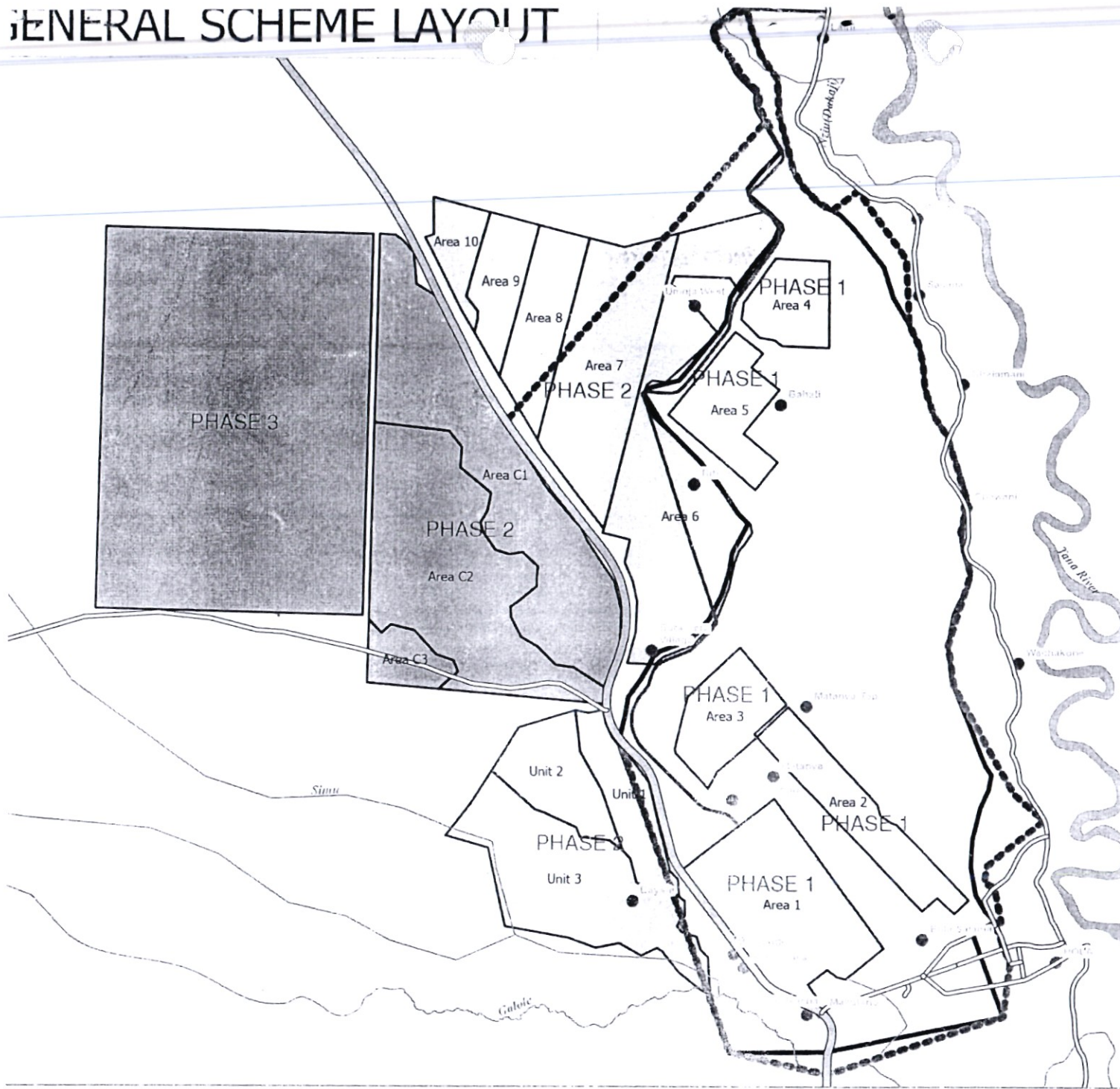


FIGURE 3 SITUATION AS OVERLAID OVER GOOGLE MAPS

GENERAL SCHEME LAYOUT

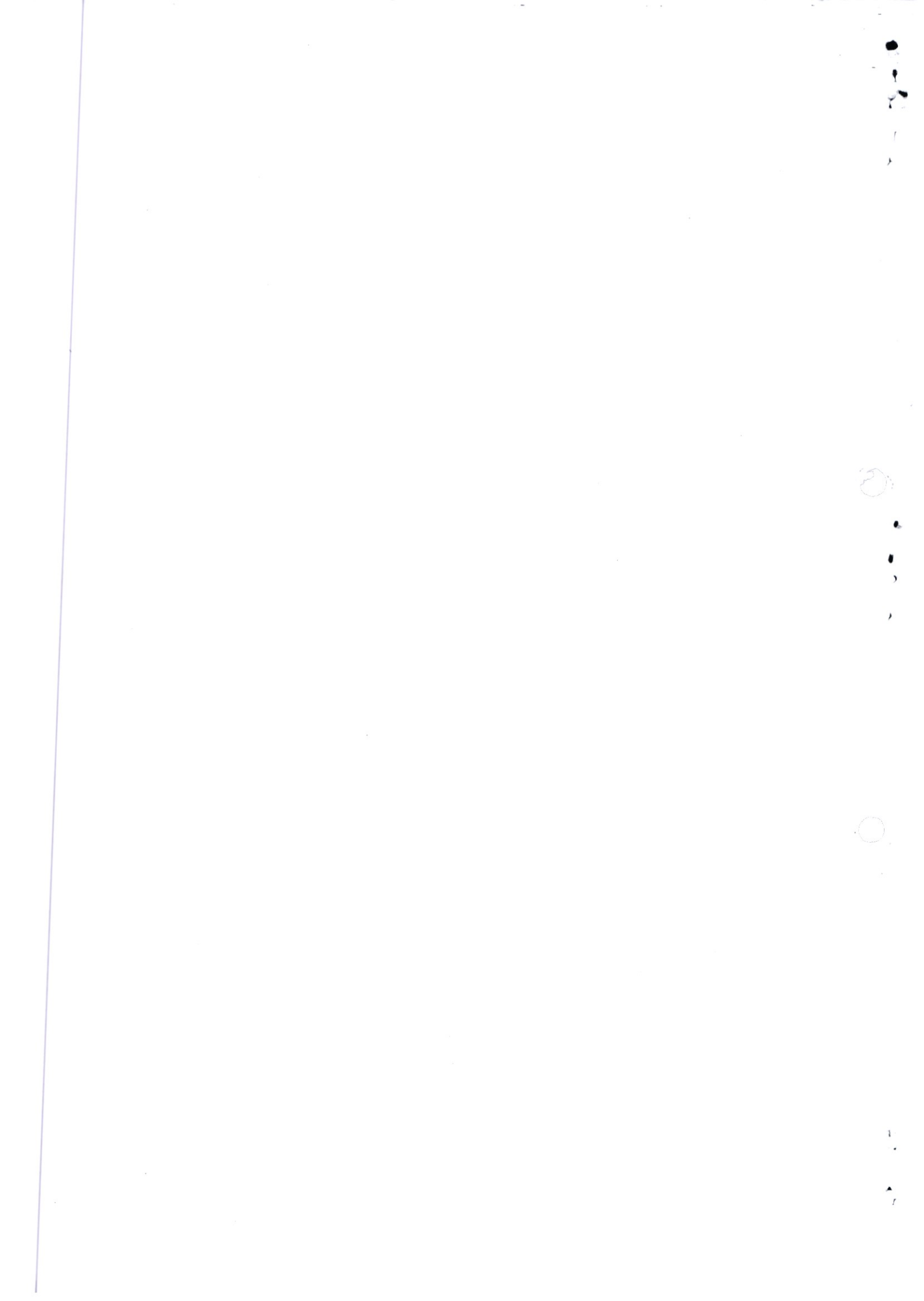


Development Phase	Irrigation Section	Gross Area(ha)
Phase 1	Existing Scheme	
	Block 1-5	1200
Phase 2	Local Farmers Section	
	Area 6	703
	Area 7	461
	Area 8	188
	Area 9	136
	Area 10	75
		1563
	Commercial Section	
	Area C1	738
	Area C2	716
Area C3	218	
	1672	
Phase 3	Proposed Extension (Commercial)	2000
TOTAL		6435
	Livestock Section	828

Legend

- Roads Type**
- Minor Road
 - ▭ Highway
 - ▭ NIA Access
 - ▭ Main Road
 - Places
 - ▭ NIB_team_15600 acres (6313 Ha)
- Existing and Expansion Area Type**
- ▭ Commercial Section
 - ▭ EXTENSION
 - ▭ Existing Scheme
 - ▭ Livestock Section
 - ▭ Local Farmers Section
- NIB Boundary from SOI (Apprx_12775 acres (5170 Ha))**





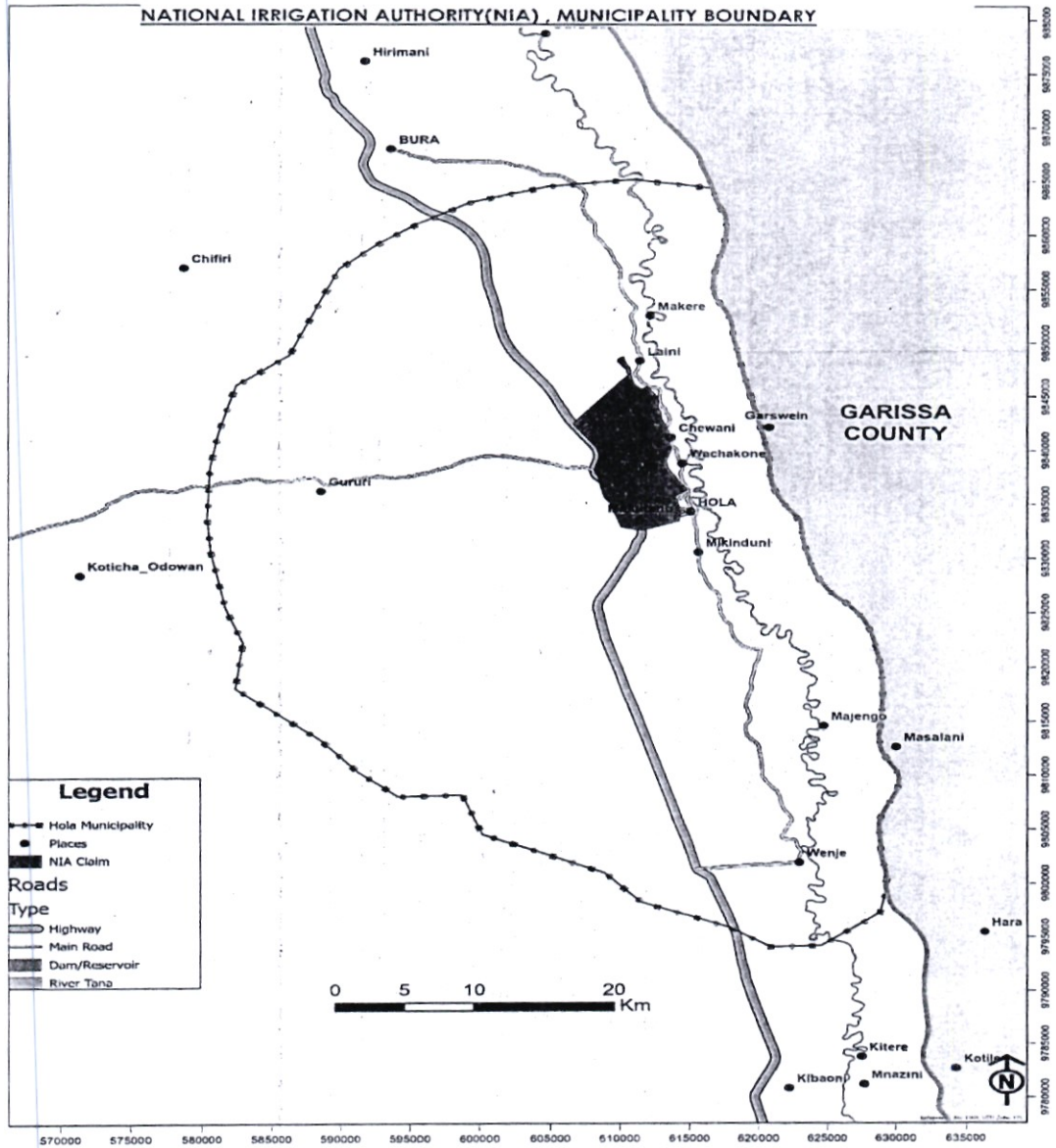


FIGURE 4 HOLA MUNICIPALITY BOUNDARY

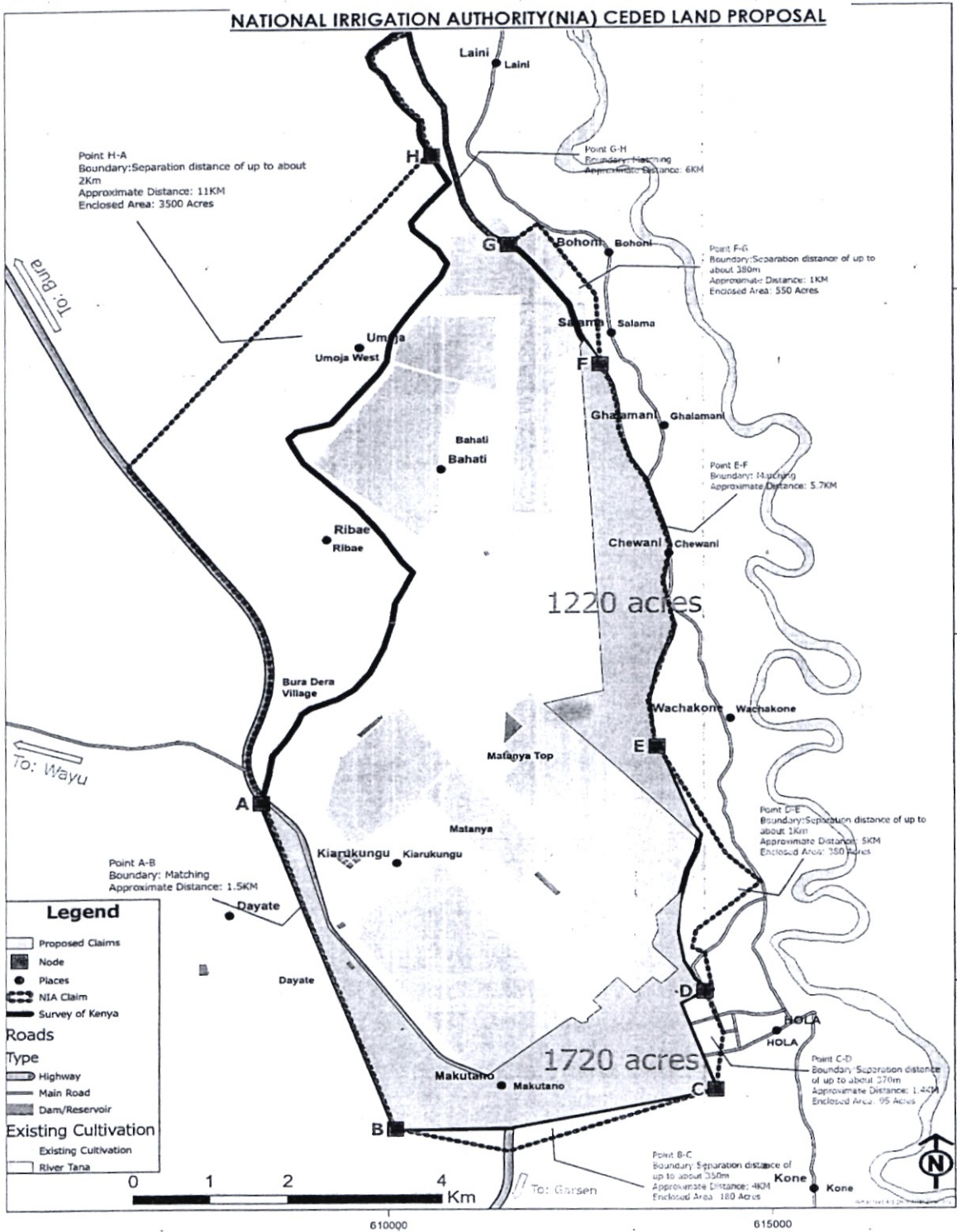


FIGURE 5 NIA LAND TO BE CEDED FOR HOLA MUNICIPALITY EXPANSION