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THE NATIONAL ASSEMBLY

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LHM on  
2/3/2017



ELEVENTH PARLIAMENT – FIFTH SESSION- 2017

DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL  
RESOURCES

REPORT ON THE PROPOSED DEGAZETTMENT OF 1, 577.36 HECTARES OF  
TURBO FOREST RESERVE COMPRISING THE MAUTUMA SETTLEMENT  
SCHEME IN LUGARI DISTRICT, KAKAMEGA COUNTY

CLERK'S CHAMBERS  
PARLIAMENT BUILDINGS,  
NAIROBI

MARCH, 2017

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## ACRONYMS / ABBREVIATIONS

|      |   |   |
|------|---|---|
| EIA  | - | Environmental Impact Assessment             |
| Ha   | - | Hectares                                    |
| KFS  | - | Kenya Forest Service                        |
| NEMA | - | National Environmental Management Authority |

## **CHAIRMAN'S FOREWORD**

The Proposal to de-gazette 1,577.36 Hectares of Turbo Forest Reserve comprising the Mautuma Central Settlement Scheme in Lugari District, Kakamega County was received by the Committee on 28<sup>th</sup> June, 2016. The proposal from the Cabinet Secretary for the Ministry of Environment and Natural Resources, Prof. Judi Wakhungu, EGH, sought to regularize the already existing settlements in the scheme.

In considering the proposal, the Committee held meetings with officials Ministry of Environment & Natural Resources and the Member for Lugari Constituency, the Hon. Ayub Savula, M.P. The Committee also carried out an inspection visit to Mautuma settlement scheme on 25<sup>th</sup> November, 2016. During the visit, the Committee received views from residents of the scheme.

The Committee established that as regards existing legislations, due process had been followed before the recommendation to de-gazette Turbo Forest Reserve Comprising the Mautuma Settlement scheme was brought to Parliament. These includes: public participation fora, carrying out of an Environmental Impact Assessment study and a recommendation by the Kenya Forest Service Board as provided for in the Forest Act, 2005.

The Committee wishes to register its appreciation to the offices of the Speaker and the Clerk of the National Assembly for the support accorded to the Committee in the execution of its mandate.

On behalf of the Committee and pursuant to Standing Order 227 (2) of the National Assembly, I now have the honor to present the Committee Report on the Proposed Gazettement of Mautuma Settlement Scheme.

**HON. AMINA ABDALLA, CBS, MP**

## EXECUTIVE SUMMARY

In this report the Committee has considered the Petition to de-gazette Turbo Forest Reserve to regularise Mautuma central Settlement Scheme. The Committee held meetings with the Cabinet Secretary for the Ministry of Environment and Natural Resources, Prof. Judi Wakhungu, EGH who informed the Committee that due process was followed as stipulated in the Forest Act and Environmental Coordination and Management Act before the recommendation to de-gazette was brought to Parliament. This included public participation fora, carrying out an Environmental Impact Assessment study and a recommendation to de-gazette the scheme by the Kenya Forest Service Board (**Annex iv**).

The Committee also held a meeting with the Member for Lugari, Hon. Ayub Savula, M.P who requested that the process of de-gazettement be expedited as it had taken too long. The Committee also carried out a fact finding visit to the settlement scheme and held a public hearing on November 25, 2016.

Section 28 of the Forest Act, 2005 provides that variation of boundaries of forests or revocation of state of Local Authority forests shall only be published where the proposal is recommended by the Service (Kenya Forest Service Board) and is subsequently approved by resolution of Parliament.

The Committee recommends that Parliament approves the de-gazettement of 1,577.86 Hectares of Turbo Forest Reserve Area comprising of Mautuma Central Settlement Scheme in Lugari Constituency, Kakamega County since due process was followed as regards existing legislations for the proposed de-gazettement and considering that the area is already in habited. The Committee further recommends that the Ministry of lands and Physical Planning and the Ministry of Environment and Natural Resources should ensure that people settled in wetlands and other ecologically sensitive areas are relocated and given alternative land and further ensure that the wetlands and ecologically sensitive areas are restored and rehabilitated.

## **MANDATE**

The Departmental Committee on Environment and Natural Resources is established under the National Assembly Standing Orders No. 216(1).

The functions and mandate of the Committee are contained under Standing Order 216(5) and include, to:-

- a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
- b) Study the program and policy objectives of the Ministries and departments and the effectiveness of the implementation;
- c) Study and review all legislation referred to it;
- d) Study, access and analyze the relative success of the Ministries and Departments as measured by the results obtained as compared with its stated objectives;
- e) Investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
- f) Vet and report on all appointments where the constitution or any law requires the National Assembly to approve, except those under Standing Order 204; and
- g) Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

The Committee oversees issues to do with climate change, environment management and conservation, forestry, water resource management, wildlife, mining and natural resources, pollution and waste management amongst others.

## **OVERSIGHT**

In executing its mandate, the Committee oversees the following Government Departments namely:-

- i. The State department for Water Services;
- ii. The State Department of Environment;
- iii. The State Department for Natural Resources; and

iv. The Ministry of Mining

**MEMBERS OF THE COMMITTEE**

The Committee comprises the following Members:-

|                         |  |
|-------------------------|--|
| <b>Chairperson</b>      | The Hon. Amina Abdalla, CBS M.P.         |
| <b>Vice chairperson</b> | The Hon. Alexander Kosgey, M.P.          |
|                         | The Hon. Alice Ng'ang'a, M.P.            |
|                         | The Hon. Samuel Ndiritu, M.P.            |
|                         | The Hon. Zuleikha Hassan Juma, M.P.      |
|                         | The Hon. Dr. Ejidius Njogu Barua, M.P.   |
|                         | The Hon. Jude Njomo, M.P.                |
|                         | The Hon. Moitalel Ole Kenta, M.P.        |
|                         | The Hon. Kathuri Murungi, M.P.           |
|                         | The Hon. Sunjeev Birdi, M.P.             |
|                         | The Hon. Jackson K. Rop, M.P.            |
|                         | The Hon. Abdi Noor Ali, M.P.             |
|                         | The Hon. Joyce Emanikor, M.P.            |
|                         | The Hon. Abdulaziz Farah, M.P.           |
|                         | The Hon. Ronald Tonui, M.P.              |
|                         | The Hon. (Dr.) Reginalda Wanyonyi, M.P.  |
|                         | The Hon. Gideon Mwiti, M.P.              |
|                         | The Hon. Hassan Dukicha, M.P.            |
|                         | The Hon. Isaac Mwaura, M.P.              |
|                         | The Hon. Opiyo Wandayi, M.P.             |
|                         | The Hon. Charles G. Mongare, M.P.        |
|                         | The Hon. (Dr.) Wilber K. Ottichilo, M.P. |
|                         | The Hon. Richard Makenga, M.P.           |
|                         | The Hon. George Ogalo, M.P.              |
|                         | The Hon. (Major) Muluvi Mutua, M.P.      |
|                         | The Hon. Mohamed, Diriye M.P.            |
|                         | The Hon. Peter Kinyua, MP.               |
|                         | The Hon. Shukran Hussein Gure, M.P.      |
|                         | The Hon. Joyce Lay, M.P.                 |

## **COMMITTEE SECRETARIAT**

The Committee is serviced by the following Members of Staff:

|                         |                             |
|-------------------------|-----------------------------|
| Ms. Tracy Chebet Koskei | <b>Clerk Assistant II</b>   |
| Mr. Hassan A. Arale     | <b>Clerk Assistant III</b>  |
| Mr. Ronald Walala       | <b>Legal Counsel II</b>     |
| Mr. James Muguna        | <b>Research Officer III</b> |
| Ms. Amran Mursal        | <b>Fiscal Analyst III</b>   |

## **COMMITTEE OBSERVATIONS**

The Committee made the following observations:

1. The residents of Mautuma Settlement Scheme have occupied the land since 1992, however the delay in regularizing the ownership of the land has increased the level of poverty in the area;
2. As regards existing legislations, due process had been followed before the proposal to de-gazette Turbo Forest Reserve comprising the Mautuma Settlement scheme was brought to Parliament. These includes: public participation fora, carrying out of an Environmental Impact Assessment study and a recommendation by the Kenya Forest Service Board as provided for in the Forest Act, 2005;
3. The number of settlers in the Mautuma Settlement Scheme has increased and it is difficult to establish who the real beneficiaries of the settlement scheme were;
4. There was need to prevent further encroachment into the remaining forest land;
5. The Environmental Impact Assessment study report carried out established that some residents had been settled on wetlands, rocky areas and other ecologically sensitive areas. One of the conditions of licensing by NEMA was that such residents had been settled on wetlands and needed to be relocated; and,
6. The Committee noted that initially the residents had each been promised 5 acres of land, however some settlers were given 5 acres while others had only received two (2) acres per family. Therefore the inequitable distribution of land is brewing animosity in the area.



## COMMITTEE RECOMMENDATIONS

The Committee having had meetings and carried out investigations, recommends that:-

1. Parliament approves the de-gazettement of 1,577.86 Hectares of Turbo Forest Reserve Area comprising of Mautuma Central Settlement Scheme in Lugari Constituency, Kakamega County since due process was followed as regards existing legislations for the proposed de-gazettement and considering that the area is already in habited. The Committee however notes that this degazettement will set a bad precedence in a country whose forest resources are continually under threat;
2. The Ministry of Lands and Physical Planning should verify the registered owners of the settlement scheme to ensure title deeds are given to real and deserving owners;
3. The Kenya Forest Service should encourage the settlers of the scheme to carry out forest farming to maintain the ecosystem of the area;
4. The Ministry of lands and Physical Planning and the Ministry of Environment and Natural Resources should ensure that people settled in wetlands and other ecologically sensitive areas are relocated and given alternative land and further ensure that the wetlands and ecologically sensitive areas are restored and rehabilitated; and,
5. The Ministry of Lands and Physical Planning should look into the issue of inequitable distribution of land in the settlement scheme and come up with a solution.

## **1.0 Background**

On 28<sup>th</sup> June, 2016 the Cabinet Secretary for the Ministry of Environment and Natural Resources, Prof. Judi Wakhungu, EGH wrote to the Committee requesting for the approval of the de-gazettement of Mautuma Central Settlement Scheme.

The Mautuma Central Settlement scheme was started in 1992 after the then President, Hon. Daniel Toroitich Arap Moi allocated land to the squatters who had been living next to Turbo Forest Reserve. The scheme measures 1,577.86 Ha and is part of the Mautuma Turbo Forest measuring 9,534 Ha. After the proposed degazettement the remaining forested area will be 8,000 Ha.

The Mautuma Central Settlement Scheme is part of Mautuma / Turbo forest that consists of both natural and plantation forest areas. The Kenya Forest in a bid to protect the remaining forest area has clearly demarcated the forest with a road. KFS is also encouraging the settlers on the scheme to practise forest farming in order to protect the ecosystem.

The proposal to degazette Mautuma Settlement Scheme was forwarded to Parliament on 28<sup>th</sup> June, 2016 by the Cabinet Secretary for the Ministry of Environment and Natural Resources. The proposal was directed to the Departmental Committee on Environment and Natural Resources for consideration and thereafter reports its recommendation to the House for consideration.

### **1.1 Relevant Legislations**

#### The Forest Act, 2005

At the time of the proposal to degazette, the legislation in place was the Forest Act, 2005 According to section 28 of the Act, variation of boundaries of forests or revocation of state of local Authority forests shall only be published where the proposal is recommended by the Service (Kenya Forest Service Board) and is subsequently approved by resolution of Parliament.

The Kenya Forest Service Board during its sitting of 29<sup>th</sup> June, 2012 considered and approved the proposal to de-gazette 1,577.86 Hectares of Lugari Forest comprising of Mautuma Central settlement scheme to regularize the settlement and facilitate issuance of title deeds to the beneficiaries (annex minutes). The recommendation by the KFS Board to degazette is in line with provisions of Section 28 of the Forest Act, 2005.

## Environment Management and Coordination Act (EMCA) 1999

In accordance with the Environment Management and Coordination Act (EMCA) 1999, the Mautuma Central Settlement Scheme in Lugari District appointed a consultant, Mr. Fredrick O. Omondi to prepare an Environmental Impact Assessment (EIA) project Report.

According to the Report submitted to the Committee, the scope of the study covered the physical extent of the project site and its immediate environs, implementation of the proposed resettlement and installation of key institutions and utilities including other facilities required for the project to function optimally.

An EIA license was issued by the National Environment Management Authority on 11<sup>th</sup> October, 2012. (**Annex III**)

### **EIA Study Recommendations**

The EIA study Report made the following Recommendations:

1. The proposed de-gazettement of the Turbo Forest Area to regularize the Mautuma Central Settlement Scheme;
2. The proposed registration programme is implemented within the planned timeframe and transparency should be upheld at all times;
3. The adjudication of the plots for the beneficiaries, institutions and public utilities take cognizance of conservation of ecologically sensitive areas;
4. The government agencies, beneficiaries and stakeholders participate in the integrated planning and implementation;
5. The proponent and the beneficiaries adhere to the proposed environmental management plan as a guide to mitigate potential adverse impacts;
6. The proponent to undertake environmental audit of the resettlement programme after twelve months of registration

### **Conditions of the EIA license**

Some of the Conditions of licensing include:

1. The proponent shall provide the final accounts on completion of construction phase. This should be done prior to project commissioning/operation/occupation.
2. Without prejudice to the other conditions of this license, the proponent shall implement and maintain an environmental management system, organizational structure and allocate resources that are sufficient to achieve compliance with the requirements and conditions of this license.

3. The Authority shall not be taken as a statutory defence against charges of environmental degradation or pollution in respect of any manner of degradation/ pollution not specified herein;
4. The proponent shall ensure that de-gazettement and excision of forest for purpose of establishing the settlement scheme are done as per the provision of Forest Act, Water Act and all other legal provisions;
5. The proponent shall ensure that records on conditions of licenses/ approval and project monitoring and evaluation shall be kept on the site for inspection by NEMA's Environmental inspectors;
6. The proponent shall submit an Environmental Audit report in the first year of occupation/ operations/ commissioning to confirm the efficacy and adequacy of the Environmental Management Plan;
7. The proponent shall comply with NEMA's improvement orders throughout the project cycle
8. The proponent shall put up a project signboard as per the Ministry of works standards indicating the NEMA license number among other information;
9. The proponent shall ensure that all excavated material and debris is collected, re-used and where need be, disposed off as per the Environmental Management and Coordination (Waste Management) Regulations of 2006.
10. The proponent shall ensure strict adherence to the occupational Safety and Health Act (OSHA), 2007;
11. The proponent shall ensure strict adherence to the Environmental Management Plan developed throughout the project cycle;
12. The proponent shall ensure that the development adheres to zoning specifications issued for development of such a project within the jurisdiction of the County of Kakamega;
13. The proponent shall ensure that adjudication of the plots for the beneficiaries, institutions and public utilities does not occupy ecologically sensitive areas and rocky hills;
14. The proponent and other lead agencies shall ensure that farm forestry is practiced to ensure environmental conservation;
15. The proponent shall ensure sound land use practices are put in place to ensure environmentally sustainability;
16. The proponent shall ensure that rain water harvesting facilities are provided to supplement surface and ground water;

17. The proponent shall ensure that environmental protection facilities or measures to prevent pollution and ecological deterioration such as re-forestation, sound agricultural practices, water harvesting systems, tree planting are designed, constructed and employed simultaneously with the proposed project;
18. The proponent shall ensure that all pollutants and polluted material is contained and adequate mitigation measures provided during the phase.

## **1.2 Petition by Residents of Mautuma Settlement Scheme**

In December 2015, the Hon. Ayub Savula presented a Petition to the Clerk of the National Assembly on behalf of residents of Mautuma settlement scheme. The petition was however not formally presented to the House and was presented to the Committee on 13<sup>th</sup> September, 2016. According to the petition the residents of Mautuma Settlement Scheme had been settled on the forest area in 1992 by the former President Daniel Arap Moi. And while the residents were the legitimate occupiers of the land, lack of title deeds left them at a risk of being evicted from the land or land grabbing.

The Petition further stated that due process had been followed which included public participation and an Environmental Impact Assessment Study had also been carried out.

The Petitioners prayed the following:

1. The Petition be dealt with immediately in view of the urgency of this matter and the seriousness of the issues raised;
2. That the Speaker of the House invokes his mandate and duty to call for the recommendation of the Ministry of Environment and Natural Resources, through the Kenya Forest Service, so as to enable resolution by Parliament on the de-gazettement of 1,577.86 hectares of Lugari Constituency, Kakamega County.
3. That the Speaker of the House and /or relevant Committee of the House invoke their mandate and duty to summon the Cabinet Secretary to explain reasons for the delay.

## **2.0 Evidence**

### **2.1 Submission by the Cabinet Secretary for the Ministry of Environment and Natural Resources, Prof. Judi Wakhungu, EGH**

On 2<sup>nd</sup> September, 2016, the Cabinet Secretary, Prof. Wakhungu informed the Committee that the proposed de-gazettement is meant to formalize the Mautuma Central Settlement Scheme in Lugari District, Kakamega County. The Settlement scheme came to existence in 1992 following a government decision to allocate part of the gazetted turbo forest reserve for settlement of landless people who were living as squatters in various areas within the former western province. This was after a request was presented to the then President His Excellency Daniel Toroitich arap Moi by the local leaders led by the then area Member of Parliament for Lugari Constituency, the late Honourable Apili Wawire.

She further stated that the settlement scheme is fully settled and developed with permanent structures and other social amenities like schools, markets and health centres, with a population estimated at over 45,000 people. The land occupied by the settlement scheme is still legally regarded as forest land until de-gazettement of the same is done pursuant to section 28 of the Forest Act, 2005.

## **2.2 Field visit to Mautuma Settlement Scheme**

The Committee carried out a fact finding visit to Mautuma Settlement scheme on November 25, 2016 and received the following submissions:

### **A. Submission by Western Conservancy Ecosystem Manager, Mr. George Wandabwa**

Mr. Wandabwa informed the Committee that:

- (i) Kakamega County has a population of 1,660,651 people according to the Kenya National Bureau of Statistics, 2009 and is ranked the second most populous County after Nairobi;
- (ii) The County has three forest zones namely Kakamega, Lugari and Butere/Mumias. Management of these forest zones is under the Ecosystem Conservator based in Kakamega;
- (iii) The Mautuma settlement scheme was part of Turbo/ Nzoia Forest Station, Mautuma forest block. The forest was converted into settlement called Mautuma in 1994;
- (iv) The Turbo forest has 6,135.8 Ha of natural forest and 3,398.2 Ha of plantation forest making the total forest area 9,534 Ha; and
- (v) The Report of the Ndungu Commission on Illegal and Irregular allocation of Public Land published in 2010 recommended the formalization of the Mautuma settlement scheme.

### **B. Submission by Mr. Charles Kunukha, on behalf of East Africa Tannin Extract Company Squatters**

Mr. Kunukha submitted that:

- (i) The area was originally owned by a company known as the East African Tanning Extract Company (EATECO);
- (ii) EATECO promised its workers that they would be settled on the land upon completion of the company's contract in 1977. However this never happened as the land was taken over by the department of forestry for planting of exotic trees;

- (iii) In 1992 the Squatters approached the then President who directed that they be settled on one parcel of the Mautuma Turbo forest. According to them they were promised 5 acres per individual but have only gotten 2 acres;
- (iv) People who gave up their land for construction of utilities like schools in neighbouring areas have also settled in Mautuma Settlement scheme yet they are not the original settlers;
- (v) The scheme has become a scandal especially with some people in leadership positions allocating themselves large parcels of land;
- (vi) The settlement office charges up to Kshs. 80,000 per plot of 1.8 acres yet the land is yet to be degazetted;
- (vii) He requested that the county government in conjunction with the National Land Commission allocate an additional 6,000 acres in addition to the 3,800 that is approved for degazettement so that all squatters who have not gotten land be given land; and
- (viii) The people who are settled in swampy and rocky areas be given alternative land.

**C. Submission by Mr. Evans Orumi, Sub-County Land Adjudication and Settlement Officer**

Mr. Orumi submitted that:

- (i) The settlers in the scheme were given land through a settlement scheme loan. While some had finished paying the loans they could not be allocated titles since the land was yet to be degazetted as a forestland;
- (ii) The number of squatters in the area had increased and a verification of the real beneficiaries of the scheme will have to be carried out;
- (iii) The approved 1,577 Ha was very little and it may be prudent to consider allocation of more land to settle the squatters who are yet to be allocated land.

**D. Submission by Mr. David Wabukhe – Former Area Chief**

Mr. Wabukhe submitted that:

- (i) There was need for expeditious formalization of the land ownership to enable the residents have peace of mind;
- (ii) issuance of titles would help in alleviating the poverty levels in the area as the residents would be more focused in developing the area;
- (iii) That the funds being remitted through the Settlement Scheme Loans be stopped
- (iv) The existing register at the settlement's office should be verified to ensure only real and deserving beneficiaries are allocated titles;

- (v) In the Environmental Impact Assessment study carried out, one of the conditions of licensing was that the people who are living next to swampy areas be resettled elsewhere. He requested that people living in water catchment areas be relocated in order to protect the environment.

#### **E. Submission by the Hon. Ayub Savula, M.P -Area Member of Parliament**

The Hon. Savula informed the meeting that the area allocated for settlement was inadequate and there was no space for amenities such as health centres, schools and roads. He therefore requested for an additional 6,000 acres for such amenities and to accommodate the squatters who will not be able to get land in the existing scheme. Further, he submitted that there were undeserving people and outsiders who had been allocated large parcels of land in a dubious manner and there was need to ensure that during issuance of title deeds only the settlers of Mautuma area benefitted.

### **3.0 Committee Observations**

The Committee made the following observations:

1. The residents of Mautuma Settlement Scheme have occupied the land since 1992, however the delay in regularizing the ownership of the land has increased the level of poverty in the area;
2. As regards existing legislations, due process had been followed before the recommendation to de-gazette Turbo Forest Reserve comprising the Mautuma Settlement scheme was brought to Parliament. These include: public participation fora, carrying out of an Environmental Impact Assessment study and a recommendation by the Kenya Forest Service Board as was provided for in the Forest Act, 2005;
3. The number of settlers in the Mautuma Settlement Scheme has increased and it is difficult to establish who the real beneficiaries of the settlement scheme were;
4. There was need to prevent further encroachment into the remaining forest land;
5. The Environmental Impact Assessment study report carried out, established that some residents had been settled on wetlands, rocky areas and other ecologically sensitive areas. One of the conditions of licensing by NEMA was that such residents had been settled on wetlands and needed to be relocated;
6. The Committee noted that initially the residents had each been promised 5 acres of land, however some settlers were given 5 acres while others had only received two (2) acres per family. Therefore the inequitable distribution of land is brewing animosity in the area.



#### 4.0 Committee Recommendations

1. Parliament approves the de-gazettement of 1,577.86 Hectares of Turbo Forest Reserve Area comprising of Mautuma Central Settlement Scheme in Lugari Constituency, Kakamega County since due process was followed as regards existing legislations for the proposed de-gazettement and considering that the area is already in habited. The Committee however notes that this degazettement will set a bad precedence in a country whose forest resources are continually under threat;
2. The Ministry of Lands and Physical Planning should verify the registered owners of the settlement scheme to ensure title deeds are given to real and deserving owners;
3. The Kenya Forest Service should encourage the settlers of the scheme to carry out forest farming to maintain the ecosystem of the area;
4. The Ministry of lands and Physical Planning and the Ministry of Environment and Natural Resources should ensure that people settled in wetlands and other ecologically sensitive areas are relocated and given alternative land and further ensure that the wetlands and ecologically sensitive areas are restored and rehabilitated; and,
5. The Ministry of Lands and Physical Planning should look into the issue of inequitable distribution of land in the settlement scheme and come up with a solution.

Signed..........Date..........

**Hon. Amina Abdalla, CBS, MP**

**Chairperson, Departmental Committee on Environment and Natural Resources**







## **ANNEXES I. ADOPTION LIST**



DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

ADOPTION LIST OF THE REPORT ON THE PROPOSED DEGAZETTEMET OF  
1,577,36 HECTARES OF TURBO FOREST RESERVE COMPRISING THE MAUTUMA  
SETTLEMENT SCHEME IN LUGARI DISTRICT, KAKAMEGA COUNTY

|    | NAME   | SIGNATURE |
|----|--|-----------|
| 1  | Hon. Abdalla, Amina, CBS, MP-CHAIRPERSON             |           |
| 2  | Hon. Alexander Kosgey, MP<br><b>Vice Chairperson</b> |           |
| 3  | Hon. Dukicha, Hassan Abdi, MP                        |           |
| 4  | Hon. Emanikor, Joyce Akai, MP                        |           |
| 5  | Hon. Ganya, Francis Chachu, MP                       |           |
| 6  | Hon. Geni, Charles Mongare, MP                       |           |
| 7  | Hon. Gure, Shukran Hussein, MP                       |           |
| 8  | Hon. Ole Kenta, Richard Moitalel, MP                 |           |
| 9  | Hon. Mohamed, Diriye Abdullahi, MP                   |           |
| 10 | Hon. Murungi, Kathuri, MP                            |           |
| 11 | Hon. Ogalo, George Oner, MP                          |           |
| 12 | Hon. Sunjeev Kour Birdi, MP                          |           |
| 13 | Hon. Tonui, Ronald Kiprotich, MP                     |           |
| 14 | Hon. Dr. Wanyonyi, Reginalda N, MP                   |           |
| 15 | Hon. Farah, Abdulaziz Ali, MP                        |           |
| 16 | Hon. Barua, Ejidius Njogu, MP                        |           |
| 17 | Hon. Irea, Gideon Mwiti, MP                          |           |
| 18 | Hon. Muluvi, Marcus Mutua, MP                        |           |
| 19 | Hon. Opiyo wandayi, MP                               |           |

|    |                                     |   |
|----|-------------------------------------|---|
| 20 | Hon. Ndiritu, Samuel Mathenge, MP   |   |
| 21 | Hon. Ottichilo, Wilber Khasilwa, MP |   |
| 22 | Hon. Rop, Jackson Kipkorir, MP      |  |
| 23 | Hon. Abdinoor, Mohammed Ali, MP     |   |
| 24 | Hon. Ng'ang'a, Alice Wambui, MP     |   |
| 25 | Hon. Peter Kinyua, MP               |   |
| 26 | Hon. Richard Makenga, MP            |   |
| 27 | Hon. Zuleikha Hassan Juma, MP       |   |
| 28 | Hon. Jude Njomo, MP                 |   |
| 29 | Hon. Joyce Lay, M.P                 |   |

**CHEBET KOSKEI**  
**FOR -CLERK OF THE NATIONAL ASSEMBLY**

**ANNEXES II. MINUTES OF COMMITTEE  
DELIBERATIONS**

**MINUTES OF THE 9<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES, HELD ON FRIDAY 17<sup>TH</sup> FEBRUARY, 2017 AT 10.00 AM IN IMPERIAL HOTEL, KISUMU CITY**

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**PRESENT**

1. Hon. Abdalla Amina, M.P. – **Chairperson**
2. Hon. Tonui Ronald Kiprotich, M.P
3. Hon. Dr. Wanyonyi Reginalda N. M.P.
4. Hon. Dr. Ottichillo K. Wilber, M.P.
5. Hon. Richard Makenga, M.P
6. Hon. Jude Njomo, M.P.
7. Hon. Wandayi James Opiyo, M.P.
8. Hon. Geni Charles Mong'are, M.P.
9. Hon. Rop Jackson Kipkorir, M.P.
10. Hon. Sunjeev Kaur Birdi, M.P.
11. Hon. Abdinoor Mohammed Ali, M.P.
12. Hon. Ndiritu Samuel Mathenge, M.P.
13. Hon. Peter Kinyua, M.P.
14. Hon. Ogalo George Oner, M.P.
15. Hon. Farah, Abdulaziz Ali, M.P.
16. Hon. Ole Kenta Richard Moitalel, M.P.

**APOLOGIES**

1. Hon. Alexander Kosgey, M.P. – **Vice Chairperson**
2. Hon. Ganya Francis Chachu, M.P.
3. Hon. Kathuri Murungi, M.P.
4. Hon. Muluvi Marcus Mutua, M.P
5. Hon. Dr. Barua Ejidius Njogu, M.P.
6. Hon. Ng'ang'a Alice Wambui, M.P.
7. Hon. Dukicha Hassan Abdi, M.P.
8. Hon. Irea Gideon Mwiti, M.P.
9. Hon. Joyce Lay, M.P
10. Hon. Gure Shukran Hussein, M.P.
11. Hon. Mohamed Diriye Abdullahi, M.P
12. Hon. Emanikor Joyce, M.P.
13. Hon. Zulekha Hassan, M.P

**IN-ATTENDANCE - SECRETARIAT**

1. Ms. Florence Abonyo - Director Committee Services, National Assembly
2. Ms. Tracy Chebet Koskei - Clerk Assistant II
3. Mr. Hassan A. Arale - Clerk Assistant III

- |                       |                                  |
|-----------------------|----------------------------------|
| 4. Mr. James Muguna   | - Research Officer III           |
| 5. Mr. Lilian Amuga   | - Public Communication Assistant |
| 6. Mr. Nickson Mutai  | - Audio Officer                  |
| 7. Mr. Mohamamed Said | - Serjeant at Arms               |

**MIN.NO. DC/ENR/031/2017: PRELIMINARIES**

The meeting was called to order at 10.00 am after which prayers were said. The Chair then welcomed the members to the meeting.

**MIN.NO. DC/ENR/032/2017: CONSIDERATION OF THE REPORT ON THE PROPOSED DEGAZETEMENT OF 1, 577.36 HECTARES OF TURBO FOREST RESERVE COMPRISING OF MAUTUMA SETTLEMENT SCHEME IN LUGARI DISTRICT, KAKAMEGA COUNTY:**

The Members considered and adopted the report after it was proposed and seconded by Hon. Dr. Reginalda Wanyonyi, M.P and Hon. Richard Makenga, M.P respectively.

**MIN.NO. DC/ENR/033/2017: CONSIDERATION OF THE REPORT ON THE PETITION BY HON. ANDREW MWADIME M.P ON BEHALF OF RESIDENTS OF MWATATE CONSTITUENCY REGARDING HUMAN WILDLIFE SETTLEMENT AND ILLEGAL GRAZING IN TSAVO WEST NATIONAL PARK:**

The Members considered and confirmed the report on the as the true reflection of the Committee's deliberation and findings after it was proposed and seconded by Hon. Dr. Wilber Ottichilo, M.P and Hon. Sunjeev Kaur Birdi, M.P respectively.

**MIN.NO. DC/ENR/034/2017: CONSIDERATION OF THE REPORT ON THE PETITION BY HON. FRANCIS MWANGANGI M.P ON BEHALF OF RESIDENTS OF YATTA CONSTITUENCY REGARDING THE POLLUTION OF RIVER ATHI:**

The Members considered and confirmed the report on the as the true reflection of the Committee's deliberation and findings after it was proposed and seconded by Hon. Richard Makenga, M.P and Hon. Ronald Tonui, M.P respectively.

**MIN.NO.DC/ENR/035/2017:**

**ADJOURNMENT**

There being no other business the meeting was adjourned at 12.30pm.

**SIGNED.....**  
**(Chairperson)**

**DATE.....**



**MINUTES OF THE 64<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY 1<sup>ST</sup> SEPTEMBER, 2016 AT 11.00 AM IN THE CPA ROOM, PARLIAMENT BUILDINGS**

---

**PRESENT**

1. Hon. Abdalla Amina, M.P. – Chairperson
2. Hon. Emanikor Joyce, M.P.
3. Hon. Sunjeev Kaur Birdi, M.P.
4. Hon. Dr. Wanyonyi Reginalda N. M.P.
5. Hon. Farah, Abdulaziz Ali, M.P.
6. Hon. Ndiritu Samuel Mathenge, M.P.
7. Hon. Ottichillo K. Wilber, M.P.
8. Hon. Abdinoor Mohammed Ali, M.P.
9. Hon. Richard Makenga, M.P.

**APOLOGIES**

1. Hon. Alexander Kosgey, M.P. – Vice Chairperson
2. Hon. Ganya Francis Chachu, M.P.
3. Hon. Gure Shukra Hussein, M.P.
4. Hon. Ole Kenta Richard Moitalel, M.P.
5. Hon. Kathuri Murungi, M.P.
6. Hon. Tonui Ronald Kiprotich, M.P.
7. Hon. Muluvi Marcus Mutua, M.P.
8. Hon. Rop Jackson Kipkorir, M.P.
9. Hon. Peter Kinyua, M.P.
10. Hon. Joyce Lay, M.P.
11. Hon. Mohamed Diriye Abdullahi, M.P.
12. Hon. Geni Charles Mong'are, M.P.
13. Hon. Dr. Barua Ejidius Njogu, M.P.
14. Hon. Zuleikha Hassan, M.P.
15. Hon. Irea Gideon Mwititi, M.P.
16. Hon. Jude Njomo, M.P.
17. Hon. Ogalo George Oner, M.P.
18. Hon. Ng'ang'a Alice Wambui, M.P.
19. Hon. Dukicha Hassan Abdi, M.P.
20. Hon. Isaac Mwaura, M.P.

**FRIENDS OF THE COMMITTEE**

1. Hon. Ayub Savula, M.P.
2. Hon. Ali Wario, M.P.

## IN-ATTENDANCE - SECRETARIAT

1. Mr. Hassan A. Arale - Clerk Assistant III
2. Ms. Fatuma Abdi - Audio Officer

## MINISTRY OF ENVIRONMENT AND NATURAL RESOURCES OFFICIALS:

1. Prof. Judi Wakhungu - Cabinet Secretary Ministry of environment and Natural Resources.

## MAUTUMA SETTLEMENT SETTLERS;

1. Mr. Charles Kunukha - Chairman Mautuma Settlement squattersLugari Kakamega County.
2. Mr. Kennedy Barasa Kulecho - Secretary environment impact assessment
3. Mr. Fred W. Chonge -Asst. Secretary -
4. Mr. Jastus M. Wasike
5. Mr. Makhabale Musa - MCALugari Ward
6. Mr. Eliud Wafula Mulinga

## MIN.NO. DC-ENR/218/2016:

## PRELIMINARIES

The meeting was called to order at 11.30 am after which prayers were said. The Chair then welcomed the members to the meeting.

## MIN.NO. DC-ENR/219/2016: MEETING CABINET SECRETARY FOR MINISTRY OF ENVIRONMENT AND NATURAL RESOURCES:

The following were the issues the committee had sought clarification,

1. What informed the proposed degazettement?
2. Whether due process has been followed as stipulated in section 28 of the Forests Act 2005, and ,
3. The status of implementation of the committee's resolutions regarding the varying of boundaries of Banele, Mbalambala and wayu Forests.

The Cabinet Secretary responded as follows:

That, the proposed degazettement is meant to formalize the Mautuma Central Settlement Scheme in Lugari District, Kakamega County. The Settlement scheme came to existence in 19192 following a government decision to allocate part of the gazetted turbo forest reserve for settlement of landless people who were living as squatters in various areas within former western province. This was after a request was presented to the then president his excellency Daniel ToroiticharapMoi by the local leaders led by the then area Member of parliament for Lugari Constituency, the late Honourable ApiliWawire.

The settlement scheme is fully settled and developed with permanent structures and other social amenities like schools, markets and health centres, with a population estimated at over 45,000 people. The land occupied by the settlement scheme is still legally regarded as forest land until degazettement of the same is done pursuant to section 28 of the forest Act, 2005.

As regards the status of implementation of this committees's resolutions concerning the varying of boundaries of Bangale, Mbalambala and Wayu Forest areas, the following have been achieved;

**RESOLUTION NO.1:sensitization of the communities on their right of access to the forest**

- a) The Kenya forest service in April 2016 conducted sensitization and awareness creation on Communities of Wayu, Bangale and Balambala as concerns access to the forests and their user rights of the Forest resource. In addition, the Communities were sensitized on the need for conservation of these forests for sustainable provision of goods and services on which they depend on for their livelihoods.
- b) The service initiated the process of formation of Community Forest Association (CFAs) for the three forest blocks whereby the communities will be involved in the management and conservation of the forests. So far, Four (4) CFAs out of which two (2) namely Bangale and Dukano to have been registered under the societies ACT. Bangale umbrella association has been registered with an objective of unifying all the CFAs from each territorial block. It will also play a key role of arbitration and conflict management mechanisms amongst the various forest user groups. The CFAs have since expressed interest on entering into a forest management agreement with the service.
- c) As a way forward development of participatory forest Management plans for the three blocks will be undertaken in collaboration with the communities for sustainable management of the forests.

**Resolution no.2: varying of the forest boundaries**

The service has set aside a budget during the current financial year 2016/2017 to survey and realign the forest boundary to exclude all the areas currently settled and other related infrastructure. This will be undertaken in collaboration with the village committees and CFAs in order to ensure the community interest are fully taken care of. Once this exercise is accomplished, the ministry will subsequently initiate the process to degazette all the contentious areas pursuant to provisions of the forests Act 2005.

And in conclusion the cabinet secretary said her ministry has undertaken to FastTrack the process of boundary variations despite the budgetary constraints.

**MEMBERS CONCERNS:**

The following were the members concerns, that,

1. The ministry should provide the Environmental Impact Assessment report and the letter of resolution to gazette the settlement scheme by KWS and evidence of public participation;
2. Why the same law has not been applied in all the forests in the Country.

**CABINET SECRETARY RESPONSE:**

The Cabinet Secretary responded as follows; that, the new law has not been gazetted and therefore waiting in order to implement it, but as per the current law the Environmental Impact Assessment should be done by the public.

**MIN.NO.DC/ENR/220/2016:ANY OTHER BUSINESS**

The following issues were discussed:

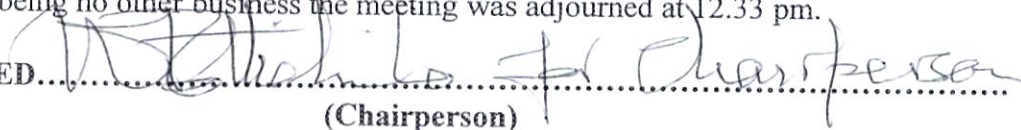
1. Hon. Savula promised to avail the Environmental Impact Assessment report for Mautuma Settlement Scheme;
2. The Cabinet Secretary informed the committee that, Kenya Railways Corporation and the Kenya wildlife Service have proposed seven options for the SGR Phase 2 Project and they need to brief the Committee jointly;

3. On the initiative to clean up the Nairobi River the Cabinet Secretary informed the Members the initiative is still on and on the Rapid Results Initiative on Waste Management and Enforcement will be implemented even in public transport vehicles. However there are challenges; NEMA needs 500 Askaris but has only Ten Askaris, further the country lacks proper dumpsites.
4. The implementation progress on the passed motion on the one day of cleaning per Month and Cabinet Secretary informed the members implementation is yet to be approved;
5. The members and Cabinet Secretary resolved to set first week of October 6<sup>th</sup> to 8<sup>th</sup> October 2016 to review the implementation of the laws passed so far.

**MIN.NO.DC/ENR/221/2016 ADJOURNMENT:**

There being no other business the meeting was adjourned at 12.33 pm.

SIGNED.....

  
.....  
(Chairperson)

DATE.....

13/10/16.....

**ANNEXES III. ENVIRONMENTAL IMPACT  
ASSESSMENT STUDY REPORT**

# ENVIRONMENTAL IMPACT ASSESSMENT PROJECT REPORT FOR MAUTUMA CENTRAL SETTLEMENT SCHEME

Certified True Copy of the  
Original



PROPONENT:

DISTRICT LAND ADJUDICATION AND SETTLEMENT OFFICER

P.O. BOX 679

KAKAMEGA

LEAD EXPERT:

FREDRICK O. OMONDI

P. O. BOX 540 – 30600

KAPENGURIA



**SUBMISSION OF DOCUMENTATION**

I, Mr. Fredrick O. Omondi, submit the Environmental Impact Assessment Project Report for Mautuma Central Settlement Scheme within the Town Council of Lugari, Lugari District. To the best of my knowledge all information contained in this report is accurate and a truthful representation of all findings as relating as relating to the proposed project.

Signature.....

Date.....

Designation: **EIA/EA LEAD EXPERT REG. NO. 1776**

I, District Adjudication and Settlement Officer, Lugari District submit this Environmental Impact Assessment Project Report for Central Settlement Scheme within the Town Council of Lugari, Lugari District. To my knowledge, all information contained in this report is accurate and a truthful representation of all findings as relating to the project.

Signature.....

Date.....

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## ACRONYMS

---

|      |  |
|------|--|
| °C   | Degree Celsius                             |
| EIA  | Environmental Impact Assessment            |
| EMCA | Environmental Management Coordination Act  |
| EMP  | Environmental Management Plan              |
| Ft   | Feet                                       |
| Ha   | Hectare                                    |
| IEA  | Initial Environmental Audit                |
| IMCE | Inter-Ministerial Committee on Environment |
| KM   | Kilometres                                 |
| NEC  | National Environmental Council             |
| NEAP | National Environment Action Plan           |
| NEMA | National Environment Management Authority  |
| NES  | National Environment Secretariat           |
| NGOs | Non Governmental Organizations             |
| OHS  | Occupational Health and Safety             |
| PEC  | Poverty Eradication Commission             |
| PPE  | Personal Protective Equipment              |
| TOR  | Terms of Reference                         |
| WRMA | Water Resources Management Authority       |

## **Introduction**

In accordance with the Environmental Management and Coordination Act (EMCA), 1999, Mr. Fredrick O. Omondi, a registered Environmental Impact Assessment/ Audit Lead Expert, was appointed to prepare an Environmental Impact Assessment (EIA) Project Report for the Mautuma Central Settlement Scheme in Lugari District. The EMCA (1999) makes EIA mandatory for all the projects specified in the Second Schedule of the Act. It is in pursuit of this piece of legislation that the project proponent with the help of NEMA registered experts undertook this EIA study and prepared this report.

## **Scope**

The scope of the study included the carrying out of environmental investigations in line with current legislations. The study covered the physical extent of the project site and its immediate environs, implementation of the proposed resettlement and installation of key institutions and utilities including other facilities required for the project to function optimally.

## **Objectives of the study**

The overall objective of the study was to assess the potential significant adverse impacts of the proposed development and articulate appropriate mitigation measures.

The specific objectives of this study include the following:

- Identification and evaluation of the significant environmental and social impacts and possible mitigation measures of the proposed project.
- Assessment of the environmental costs and benefits of the proposed project to the local and national economy.
- Determination of the compatibility of the proposed resettlement with the local environmental setting.
- Evaluation and selection of the best project alternative from the various options.
- Proposal of mitigation measures for expected negative environmental impacts.

- Incorporation of Environmental Management Plans and monitoring mechanisms during implementation, operational phases of the project.

### **Terms of reference**

The Environmental Impact Assessment (EIA) study considered the following aspects and others that may prove to be of significance during the study.

- Ecological impacts of the project and its implications on degazettement and excision from the forest reserve.
- Socio-economic implications of the development in neighborhoods and entire estate: They are impacts in terms of employment creation, security, public health and public social relations.
- Assess the impacts of development on Landscape and land use such as change in landscape, scenic view and aesthetics.
- Examine the compatibility and complementarities of the development with the surrounding land uses.
- Assess the impacts of the development on power demands, water demands, and access road congestion as well as possible impacts on surface and ground water qualities and quantities.
- Develop an Environmental Management Plan (EMP) that would mitigate the possible impacts on the environment.
- Prepare an Environmental Impact Assessment (EIA) project report for submission to National Environment Management Authority ( NEMA)

### **Potential Positive Impacts Associated with the Proposed Project**

- Improved health care as more health facilities are bound to be put in place
- Improved education levels as more education facilities will be put in place and the peaceful environment
- Improved housing due to assurances of land ownership
- Improved agricultural production and related income generating activities due to assured security, market for their produce e.t.c

- Improved security in general (increased security camps and personnel)
- Improved infrastructure (roads, water supply, electricity, telecommunication,)
- Creation of job opportunities (factories, farms)
- Enhancement of local cultural values and norms due to a peaceful environment

### **Potential Negative Impacts**

- Stress on water resources due to
- Increased water demand
- Loss of spring sources and wetlands
- Siltation of rivers and water supplies
- Pollution of water (domestic waste, pit latrines, market runoff, livestock waste)
- Water borne diseases
- Destruction of water catchment areas
- Air pollution (from dust due to construction activities and increased carbon due to smoke from homes)
- Waste generation from homes, urban centers, institutions, construction activities e.t.c
- Noise pollution (from construction activities)
- Soil erosion due to increased cultivated area, poor farming methods, road construction, livestock paths
- Deforestation through firewood collection, construction materials for the new settlers and timber demand leading to reduction of Forest cover, forest degradation, reduction of carbon sinks thus contributing towards global warming
- Loss of biomass (biological mass)
- Loss of biodiversity (rare and unique plant and animal species in the unsettled land)
- Introduction of new plant species (exotic varieties which may be detrimental to environmental quality)
- Poor sanitation (due to immediate increase in population in the settlement)

### **Potential Mitigation Measures for Negative Environmental Impacts**

- Promote water harvesting practices
- Protect all ecologically critical areas such as wetlands, riparian zones e.t.c. by clear delineation and planting of suitable indigenous plant species
- Set aside land for tree nurseries and the community to be sensitized on conservation of water catchment areas
- The community to practice soil conservation measures including construction of terraces, grass strips, cutoff drains, etc.
- Agro-forestry to be practiced in the farmlands
- Ensure the collection of all waste in a designated area. The waste should also be sorted to separate the re-usable/recyclable waste from the rest
- Non-reusable/recyclable waste should be disposed in the designated dump sites especially in markets centres and institutions
- Ensure all debris due to construction are well disposed or backfilled
- Measures should be put in place to prevent unnecessary noise from the equipment and tools used in infrastructural development projects in order to avoid discomfort and nuisance among construction workers

### **Recommendations**

Considering the information collected during the study and views and comments of the public and the stakeholders, the consultants made the following recommendations that:

- i. The proposed degazettement and excision of the Settlement Scheme from forest reserve be considered by the government.
- ii. The proposed registration programme is implemented within the planned timeframe and transparency and accountability should be upheld at all levels.
- iii. The adjudication of the plots for the beneficiaries, institutions and public utilities take cognizance of conservation of the ecologically sensitive areas.
- iv. The government agencies, beneficiaries and stakeholders participate in the integrated planning and implementation.



- v. The proponent and the beneficiaries adhere to the proposed environmental management plan as a guide to mitigate potential adverse impacts.
- vi. The proponent to undertake environmental audit of the resettlement programme after twelve months of registration.

~~proponent to undertake environmental audit of the resettlement programme~~

## **1.0 INTRODUCTION**

---

### **1.1 Background**

Mautuma Central Settlement Scheme was set aside by the government in 1992. This land was to be subdivided and allotted out into plots to squatters who are registered by settlement officers, forest officers and members of the provincial administration as genuine squatters in the area which was being degazetted as forest. The area set aside was approximately 4,000 acres. This area was surveyed in 1998 and settled in during the same year. An additional 1000 acres is required for a fully fledged university. This will also be able to accommodate other squatters who occupy swampy areas which need to be protected.

The resettlement programme was earmarked for resettling the landless people in Lugari division, Lugari District. The programme falls under Mautuma forest reserve that is yet to be degazetted and excised. The affected area is already occupied by the beneficiaries.

### **1.2 Responsibilities of the Proponent**

The responsibilities of the proponent in this EIA exercise were as follows:

- Assisting in boundary verification and field reconnaissance
- Assisting in mobilizing the community for consultation and public participation meetings and sessions
- Provision of baseline information (demographic statistics, resettlement statistics, physical and cultural resources)
- Ensure consultation and public participation process is carried out harmoniously and in a transparent manner.

### **1.3 Objectives of the Project**

The overall objective of the project was to degazette and excise the forest land to create space for resettlement of Lugari Forest squatters.

### 1.3.1 Objectives of the EIA

The main objective of the study is to assess the potential significant adverse environmental and social impacts of the proposed program and articulate appropriate mitigation measures.

The specific objectives of this study include the following:

- To identify and evaluate the significant environmental impacts and possible mitigation measures to the proposed project.
- To determine the compatibility of the proposed program with the local environmental setting.
- To evaluate and select the best project alternative from the various options.
- To propose mitigation measures for the negative environmental impacts
- To incorporate Environmental Management Plans and monitoring mechanisms during implementation and operational phases of the proposal.

### 1.4 Scope of the Study

The scope of the EIA exercise was to determine the magnitude, extent, probability, sensitivity, uncertainty and social impacts of the Settlement Scheme on the Lugari Forest Reserve.

The environmental and social impact assessments entailed elaborate collection and analysis of primary and secondary data to establish the likely trends in terms of manifestation of impacts arising from land use and development related activities on the environment as a result of implementation of the proposed registration and resettlement programme.

### 1.5 Terms of reference

The Environmental Impact Assessment (EIA) study considered the following aspects and others that may prove to be of significance during the study as follows:

- Provision of a description of the proposed programme and its alternatives.

- Provision of analysis and discussion of applicable policies, legal and institutional considerations.
- Verification of the extent and boundaries of the scheme in relation to the forest.
- Provision of a detailed description of baseline information
- Identification and analysis of environmental, social and economic impacts of the programme
- Consultation and public participation including development of conflict resolution strategy
- Development of mitigation measures for the identified environmental and social negative impacts
- Provision of a monitoring mechanism for the identified negative environmental and social impacts
- Development of an environmental management plan
- Compilation of an EIA report for submission to NEMA.

## **1.6 Methodology**

The methodology used in the study comprised desktop study, reconnaissance survey, interviews, meetings, data analysis and report writing.

### **1.6.1 Desktop Study**

A detailed literature review was carried out on similar programmes in Kenya and other parts of the world to draw lessons learnt, relevant policies, legal and regulatory frameworks, field techniques used identification of gaps to be addressed in the programme.

The expert undertook development of data collection tools, methods of data collection, scoping, planning and preparation of the field activities for the entire EIA exercise.

### **1.6.2 Field Work and Data Collection**

A site reconnaissance and visual survey was undertaken to determine the baseline information of the project area by traversing the entire resettlement area. The expert verified boundary beacons under the guidance of the District Adjudication and Settlement Officer. The EIA expert interviewed a cross section of key informants at strategic sites within the scheme with a view of getting the insights of the community feelings, perceptions, and suggestions on the proposed programme. The expert also took photographs on a number of features such as the existing land use.

### **1.6.3 Data Analysis**

Various methods were used to analyze field data and information for purposes of compiling baseline information, impacts identification and analysis, articulation of mitigation measures, development of environmental monitoring and management plan.

The data and information collected from the field and the desktop study were analyzed and the results used to identify the potential significant adverse environmental and social impacts with the associated mitigation measures of the proposed resettlement/registration program.

### **1.6.4 Discussion of Results and Compilation of EIA Study Report**

The expert held a number of briefing meetings with the proponent with the view to reporting, sharing and seeking guidance on key issues pertaining to the proposed resettlement/registration programme. The Draft report was then discussed with the Task force members for their input. The final report was then prepared and presented to the proponent for submission to NEMA for approval and licensing.

**Plate 2.1: Photo Showing the Site (With Settlements Already in Place)**



*Source: Field Survey, 2011*

## 2.0 BASELINE INFORMATION

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### 2.1: Introduction

This chapter provides the main features of the biophysical and socio economic information of the Mautuma Central resettlement project area. This information is an important reference point for conducting EIA. Baseline data is essential for the assessment of the potential impacts of the project. The conditions of the natural environment forms a basis for the selection by planners of the area to be developed for various land uses for the sustainability of the proposed project and therefore evaluation of the baseline information is important in understanding the existing environmental set up.

Baseline information characterizes the conditions at the time the project is proposed, baseline information can be either quantitative, or qualitative, illustrating socio-cultural conditions or general features of the landscape.

Baseline information is needed on all central issues in the environmental assessment, taking into account a broad definition of the environment. Baseline information provides a reference for all assessments, for accurately predicting and for the comparison of alternatives and mitigation measures. It is used as a starting point in the prediction of likely impacts resulting from the project and of naturally occurring changes in the environment.

Baseline information was collected from documents and data banks, supplemented by field studies and interviews with indigenous and other local people. Existing scientific programs may be too general to give sufficiently detailed data for specific projects. It is important to assess the availability and quality of data and information sources so that the compilation of baseline information for a specific project can be linked to other monitoring and baseline programs, including their techniques and methodologies. The

duration of the baseline survey is generally dependant on factors such as, the geographical area of the study area, the diversity of habitats within the study area, diversity of the flora and fauna in the study area, presence of sensitive habitats and baseline information available.

Many indigenous people in the area have accumulated knowledge regarding their environment and on the sustained use of environmental resources. Their knowledge of local cultural, social and ecological systems and the changes in these systems over time, including recent trends, may be an essential complement to scientific observations.

Indigenous knowledge of the indicators of stress in sensitive ecosystems may also be crucial for planning the assessment. Communities and individuals that hold this knowledge about the environment were identified during the scoping phase of the EIA. The main objective of baseline information is to provide adequate and accurate environmental baseline information and this can be broken down as follows:

- To provide a description of the status and trends of environmental factors, against which predicted changes can be compared and evaluated in terms of importance
- To provide a means of detecting actual change by monitoring once the project is implemented. The environmental resources examined in baseline analysis include:
  - i. Physical resources (climate, soils geology, ground water and surface water)
  - ii. Ecological resources (aquatic biology e.g. fisheries, wildlife, forests and endangered vegetation species, protected coastal resources.
  - iii. Economic development (infrastructural facilities such as water supply, sewerage, flood control, roads, land use, power sources, agricultural development, mining and tourism).



- iv. Social and cultural resources (e.g. population numbers, locations, composition, employment, health facilities, socio-economic conditions e.g. social well being, physical or cultural heritage, current use of lands and resources for traditional purposes by indigenous people, sites that are for historical, archeological, palaeontological or architectural significance.

## 2.2 Lugari District Location & Population

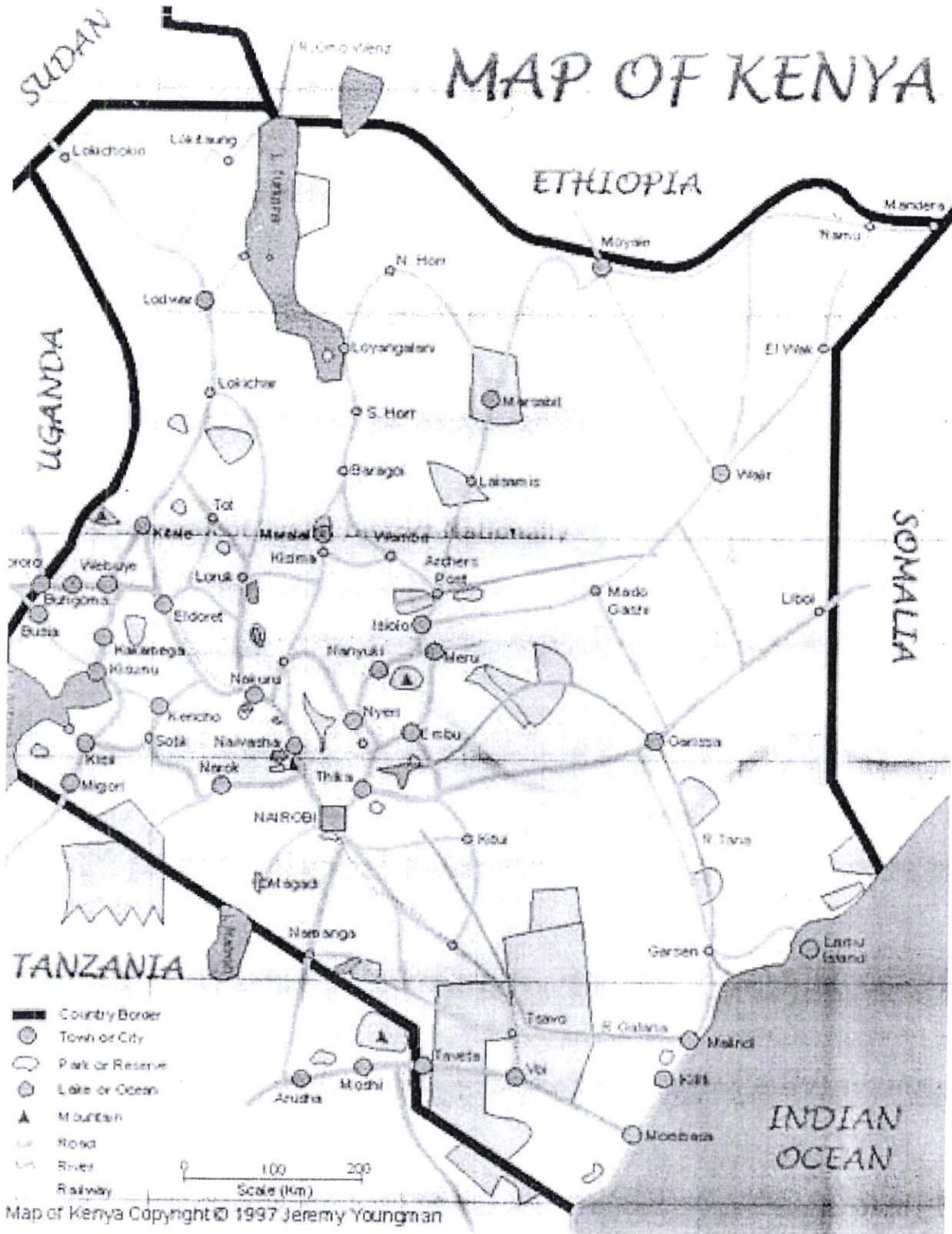
Lugari constituency covers the entire Lugari district and shares common borders with Trans-Nzoia district on the North East, and Uasingishu District on the South East. It also borders Lugari District on the South West and Bugoma District on the North West. The District runs along the Great North Road (Nairobi-Kampala Road). It is surrounded with up coming towns like Eldoret, Kitale, Lugari, and Bugoma. The district has Kipkerren River that runs across the district with shallow water supply. The district is also bordering River Nzoia to the North East. Lugari district covers approximately 9400 km square with an estimated population of about 300,000 people. Women and the youth take the larger portion of the population.

The constituency was settled with squatters by the government into small pieces of land averaging to two acres and other settlers are those who joined the settlement scheme as early as 1962. Therefore the inhabitants are entirely poor and living far below poverty lines. Map 3.1 shows that Lugari District is engulfed by a triangle that lay on the North West in the map with Kitale town Marked on the North, Webuye on the West and Eldoret on the South East.

## 2.3 Lugari District Climate & Administration

The annual rainfall ranges between 500 and 900 mm and the average temperature vary around 22 and 23°C degrees. The district is situated in the Rift Valley highland zone and receives sufficient rain showers during the month of March, April, July, August, the rest of the months are very dry.

Map 2.1 Location of Lugari District Nationally



Administratively the Lugari constituency is divided into eight sub-locations composing of villages numbering to over 120. The constituency engulfs the newly created Lugari District and has not really put in root for development. The District Commissioner is the head of district government administration, and the structure of administrations get narrowed to Chiefs, Assistant Chiefs, and village Elders. Elders are in charge of villages. The high number of women and youth groups in the area necessitated the need to have a combine effort in searching for funds and combining Groups with similar objectives.

It became easier to work with Village Elders as government representative on grass root and as they have boundary demarcation records and know groups that are registered and existed in that particular village. This fact makes it easy to combine for example, 6 women or Youth Groups into one centre of administration. In this case it becomes easier to combine administrative boundaries of two villages into one centre of service benefit for the community.

The administration of the project remains in the leadership of the joint groups and the elders, while other institutions remain overseers. The involvement of the Village Elders has a security reason for investment and sustainable projects. Also the Elders have the potential to access the public for publicity of these projects in public Rallies.

#### **2.4 Lugari District Development Profile**

Lugari district was established by a Presidential decree in late 1998 and therefore it is one of newly created districts in Kenya. The district is still underdeveloped and her inhabitants mainly practice peasant agriculture. The infrastructure (rural roads) is not developed and many villages lack social amenities and accessibility to few available social services (in terms of transport facilities, telephones etc.)

## 2.5 Lugari District Water Supply

There is critical shortage of water quality for domestic, livestock and economic purpose. In this district there are few boreholes; and inadequate seasonal rivers. There are some few shallow wells that supply water in some season. Main sources of water supply in the district are gravity and underground schemes. The water catchments have unclean water, though never dry in all seasons but the water is never in use. Most people, about 48% do not have access to clean and safe water and within a reasonable distance. In some of the sources of water, water is not available all the year round as some sources dry up during the dry reason hence causing a lot of hardships especially to women and children to travel long distances to fetch water resulting into women not being able to attend to their children properly and children not to attend school respectively.

There are number of wastewater discharge from about ten zones that due to their nature of not being dry all year round would be of value to the community if the water sources would be improved and controlled in useful water quality distributaries. There is need to develop water reserve tanks that could accommodate water for long season and be used as a common centre to serve a population within an area of reasonable square kilometres.

On the other hand livestock rearing especially with men are prompted to move with their livestock to seek for pasture living women and children behind hence causing more suffering to both mothers and children. Men, who are employed, leave behind cattle rearing in the hands of women who lack sufficient means to provide green pasture for animals.

## **3.0 POLICY, LEGAL AND INSTITUTIONAL FRAMEWORK**

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### **3.1 Introduction**

There are a number of policies that govern the protection, conservation, and exploitation of natural resources coupled with provisions for environmental management. These national policies cover forestry, agriculture, water, infrastructure, and health just but to mention a few. The national environment action plan documents cover policy directions regarding integration of environmental concerns including environmental impact assessment into the development planning process.

The Environmental Impact Assessment is a useful tool for protection of the environment from the negative effects of developmental activities. It is now accepted that development projects must be economically viable, socially acceptable and environmentally sound. It is a condition of the Kenya Government for developers to conduct Environmental Impact Assessment on the development Projects.

### **3.2 Policy Framework**

#### **3.2.1 National Environmental Action Plan (NEAP)**

The First NEAP for Kenya was prepared in mid 1990s: It was a deliberate policy effort to integrate environmental considerations into the country's economic and social development. The integration process was to be achieved through a multi-sectoral approach to develop a comprehensive framework to ensure that environmental management and the conservation of natural resources are an integral part of societal decision-making.

#### **3.2.3 The National Poverty Eradication Plan (NPEP)**

The NPEP has the objective of reducing the incidence of poverty in both rural and urban areas by 50 percent by the year 2015; as well as the capabilities of the poor and vulnerable groups to earn income. It also aims to narrow gender and geographical

disparities and a healthy, better educated and more productive population. This plan has been prepared in line with the goals and commitments of the World Summit for the Sustainable Development (WSSD) of 1995. The plan focuses on four WSSD themes of the poverty eradication; reduction of unemployment; social integration of the disadvantaged people and the creation of an enabling economic, political, and cultural environment. This plan is to be implemented by the Poverty Eradication Commission (PEC) formed in collaboration with Government Ministries, community based organizations and private sector.

### **3.3 Environmental Legal Framework**

#### **3.3.1 Legal framework**

Section 58 of EMCA requires that an EIA precedes all development activities proposed to be implemented in Kenya. This requirement was operationalised by NEMA through its publication of the legal Notice No. 101 of June 2003 on EIA/EA Regulations. The framework for EIA in Kenya and a description of types of development that should be subjected to EIA are outlined in legal notice No. 101 and the second schedule of EMCA respectively. Under this Act, it is an offence for any person or body to commence, proceed with, execute or conduct any project without approval granted under EMCA irrespective of whether any other approval had been granted under EMCA or any other agency, commands an offence punishable under part VIII of the Act. Section 72 of EMCA Prohibits discharging or applying poisonous, toxic, and noxious or obstruction matters, radioactive or any other pollutions shall pay for the restoration of damaged environment. Section 75 requires such a person to obtain waste discharge permits from the Authority. Section 73 requires that operations of projects, which discharge effluent or other pollutants, submit to NEMA account information about quality and quantity of the effluent. Section 74 demands that all effluent generated from point sources are discharged only into the existing sewage system upon issuance of prescribed permit from the local authorities. Section 93 of the Act prohibits discharge of any hazardous substance, chemicals on any water or any other segment of the environment contrary to provision of the Act.

### **3.3.2 The Water Act 2002**

The Act provides for requirements for environmental and social impacts assessment under section 29(4) for all proposed projects and public consultation. The water Act is also complemented by guidelines set by NEMA for waste disposal into natural waters and the environment and associated penalties for the pollution of water.

### **3.3.3 The Agriculture Act (CAP 318)**

The Act provides legislative controls over soil conservation and land management. The Act also prohibits any activities that may destabilize river beds and riparian zones and the Ministry of Agriculture can impose land conservation orders to control cultivation, grazing and clearing of vegetation.

### **3.3.4 The Public Health Act Cap 242**

The Act regulates Activities detrimental to human health. The owner(s) of the premises responsible for environmental nuisances such as noise emissions at levels that can affect human health are liable to prosecution under this Act. An environmental nuisance is defined as one that causes danger, discomfort or which is hazardous to human health.

### **3.3.5 Physical Planning Act (Cap. 286)**

The Local Authorities are empowered under Section 29 of the Act to reserve and maintain all land planned for open spaces, parks, urban forests and green belts. The same section, therefore allows for the prohibition or control of the use and development of land and buildings in the interests of proper and orderly development of an area.

Section 30 states that any person who carries out development without development permission will be required to restore the land to its original condition. It also states that no licensing authority shall grant license for commercial or industrial development

use or occupation of any building without a development permission granted by the respective local authority.

Finally, Section 36 states that if connection with a development application, local authority is of the opinion that the proposed development activity will have injurious impact on the environment, the application shall be required to submit together with the application an Environmental Impact Assessment (EIA) report. EMCA, 1999 echoes the same by requiring that such an EIA is approved by NEMA and should be followed by annual environmental audits.

### **3.3.6 The Pest Control Products Act Cap 346**

The Act provides for control of all chemicals used in any agricultural undertaking which must be registered under the pest control products Board. The Act highlights all the pesticides that are banned in Kenya. All pesticide storage and handling set ups must be inspected and licensed under this Act.

### **3.3.7 The Wildlife Act**

All Nature reserves and National parks are controlled by the Kenya Wildlife Service and under the wildlife (Management and Coordination) Act of 1976. The common feature with all land reserves for use by wildlife or its conversion to any form must be approved by parliament.

### **3.3.8 Other Legal Trends**

It is important to note that most of policy and legal initiatives have been promulgated to enhance the management of public affairs and to ensure that Kenyan practice is consistent with international conduct. For instance, the comprehensive framework for environmental assessment provided by EMCA, 1999, built on in the water Act 2002 and the Forests Act 2005 ensures that Kenyan processes for environmental and social assessments are in keeping with World Bank safeguard policies. Under operational



policy 4.01 of the World Bank concerning environmental assessments, the Mautuma Central Settlement Scheme project is category A. EMCA, 1999 requires that an environmental impact assessment report will first be made publicly available to public in Kenya by placing a public notice in a national newspaper and making the report available to relevant lead agencies for review and comments to enable NEMA make an informed decision. The environmental assessment process under Operational Policy 4.01 takes into account the natural resources environment (air, water and land); human health and safety, Social aspects (involuntary resettlement, indigenous people and cultural property) and transboundary and global environmental aspects.

### **3.3.9 Forests Act 2005**

The Forests Act vests conservation, protection and management of all forest areas in the country under the Kenya Forest Service. The Act provides for environmental impact assessment of any forest land before degazettement and excision can be granted by the Government. Furthermore the EIA report must be presented to parliament for review in order to inform the government for decision making.

### **3.4 Institutional Framework**

At present there are over twenty (20) institutions and departments which deal with environmental issues in Kenya. Some of the key institutions include the National Environmental Council (NEC), National Environmental Management Authority (NEMA), the Forestry Department, Kenya Wildlife Services (KWS) and others. There are also local and international NGOs involved in environmental activities that impact on the environment in one way or the other in the country.

#### **3.4.1 National Environmental Management Authority (NEMA)**

The object and purpose for which NEMA is established is to exercise general supervision and co-ordination over all matters relating to the environment and to be the principal instrument of the government in the implementation of all policies relating to the

environment. A Director General appointed by the president heads NEMA. The Authority shall:

- Co-ordinate the various environmental management activities being undertaken by the lead agencies and promote the integration of environmental considerations into development policies, plans, programmes and projects with a view to ensuring the proper management and rational utilization of the natural resources environment on a sustainable yield basis for the improvement of the quality of human life in Kenya.
- Take stock of the natural resources in Kenya and their utilization and consultation, with the relevant lead agencies, and develop land use guidelines.
- Examine land use patterns to determine their impact on the quality and quantity of the natural resources among others. Moreover NEMA mandate is designated to the following committees:

#### **3.4.2 Provincial and District Environment Committees**

According to EMCA, 1999, the Minister by notice in the gazette appoints Provincial and District Environment Committees of the Authority in respect of every province and district respectively.

#### **3.4.3 District Environment Committee**

District Environment Committees are responsible for the proper management of the environment within the District in respect of which they are appointed. They are also to perform such additional functions as are prescribed by the Act or as may, from time to time be assigned by the Minister by notice in the gazette. The decisions of these committees are legal and it is an offence not to implement them.

#### **3.4.4 Provincial Environment Committee**

The Provincial Environment Committee has an oversight and decision making role at the provincial level. Like in the case of District Environment Committees, the Provincial

Environment Committees are responsible for the proper management of the environment within the province, which they are appointed. They are also to perform such additional functions as are prescribed by this Act or as may from time to time be assigned by the Minister by notice in the gazette.

#### **3.4.5 Public Complaints Committee**

The Committee performs the following functions:

- Investigate any allegations or complaints against any person or against the authority in relation to the condition of the environment in Kenya and on its own motion, any suspected case of environmental degradation and to make a report of its findings together with its recommendations thereon to the Council.
- Prepare and submit to the Council periodic reports of its activities which shall form part of the annual report on the state of the environment under section 9 (3) and
- To perform such other functions and exercise such powers as may be assigned to it by the Council.

#### **3.4.6 National Environment Action Plan Committee**

This Committee is responsible for the development of a 5-year Environment Action plan among other things. The National Environment Action Plan shall:

- Contain an analysis of the Natural Resources of Kenya with an indication as to any pattern of change in their distribution and quantity over time.
- Contain an analytical profile of the various uses and value of the natural resources incorporating considerations of intergenerational and intra-generational equity among other duties as the EMCA specifies.

#### **3.4.7 Standards and Enforcement Review Committee**

This is a technical Committee responsible for environmental standards formulation methods of analysis, inspection, monitoring and technical advice on necessary

mitigation measures. Standards and Enforcement Review Committee consists of the members set out in the third schedule to the Environmental Management and Coordination Act. The Permanent Secretary under the Minister is the Chairman of the Standard and Enforcement Review Committee. The Director General appoints a Director of the Authority to be a member of the Standards and Enforcement Review Committee who is the Secretary to the committee and who provides secretarial services to the Committee. The Committee also regulates its own procedure. The Standard and Enforcement Review Committee may co-opt any person to attend its meetings and a person so co-opted shall participate at the deliberations of the committee but shall have no vote. Finally, the Committee shall meet at least once every three months for the transactions of its business.

#### **3.4.8 National Environmental Tribunal**

This tribunal guides the handling of cases related to environmental offences in the Republic of Kenya. The Tribunal hears appeals against the decisions of the Authority.

#### **3.4.9 National Environment Council**

EMCA 1999 Part III Section 4 outlines the establishment of the National Environment Council (NEC). NEC is responsible for policy formulation and directions for purposes of EMCA; set national goals and objectives and determines policies and priorities for the protection of the environment and promote co-operation among public departments, local authorities, private sector, nongovernmental organizations and such other organizations engaged in environmental protection programmes. It also performs such other functions as are assigned under EMCA.

#### **3.4.10 Water Resources Management Authority**

The Water Resources Management Authority (WRMA) is mandated to manage water catchment areas and water resources. The Authority will advise on future development activities in the water sector within the project area.

### **3.4.11 Kenya Forest Service**

The Kenya Forest Service (KFS) has the responsibility to protect forestry resources and promote community forestry, farm forestry, and urban tree planting. The service shall be entrusted with the control and development of activities related to this sector within the Mautuma forest ecosystem including the proposed project area.

### **3.4.12 Kenya Wildlife Service**

The Kenya Wildlife Service (KWS) is mandated to protect, conserve and manage wildlife resources in the country. The proposed project area is not far away from Mautuma forest reserve. Nonetheless, there are no wildlife which are likely to stray into the proposed project area and cause human wildlife conflicts.

## 4.0 ANALYSIS OF PROJECT ALTERNATIVES

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This section analyses the project alternatives in terms of site, size, suitability, ecological functions, energy sources and social economic considerations.

### 4.1 No Project Alternative

The no project alternative means that the land covered by Mautuma Central Settlement Scheme be left to revert back to the forest. This option means that all the settled beneficiaries are evicted. There are several negative social impacts that would be associated with this option, if implemented.

### 4.2 Site Alternatives

The consideration for alternative site to implement the settlement programme had been addressed by the proponent and proved not viable. There is enough land to accommodate all the affected people.

### 4.3 Size and suitability alternatives

The Mautuma Central Settlement Scheme area provides the approximate area required to resettle and register all the beneficiaries who have already been identified. The area is adequate to accommodate all the others who have not been settled.

### 4.4 Alternatives to Ecological Functions

Within the proposed scheme there are a number of wet lands and water recharge areas that require protection for sustainable hydrological cycle. The area still enjoys consistent river water flows despite the fact that part of the forest has been completely cleared for agriculture. In view of the foregoing, implementation of the proposed resettlement programme will not affect the ecological functions of the ecosystem.

#### **4.5 Alternatives to Energy Sources**

Most of the households in the area still rely on fuel wood as the main source of energy for cooking. There are however opportunities to locally generate electricity from other sources including small hydro, biogas and wind. These efforts will reduce the pressure on the forest as a source of energy, thus enhance the environment.

#### **4.6 Alternatives to Social Economic Considerations**

The main social and economic alternative consideration for the proposed programme includes power generation, cash crops, trade, livestock, growing of trees, and tourism. Currently the farmers in the settlement scheme receive high income from food crops grown in the area. The income levels from farming and other sources are likely to increase after registration since the beneficiaries will invest more in developing their farms.

## 5.0 CONSULTATION AND PUBLIC PARTICIPATION

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### 5.1 Introduction

Section 58 specifically section 3 sub-section 5(a) of EMCA, 1999 and subsequent EIA/EA Regulations of 2003 requires any project subjected to Environmental Impact Assessments process must include a component of consultation and public participation to incorporate their views on the proposed project. As part of these studies, the consultant (water and sanitation for poverty reduction) conducted consultation and Public Participation (CPP) in order to ensure that all Interested and Affected Parties (I & APs) were kept fully informed about the Project at all times. This allows the proponent to plan the Project in a manner which minimizes negative social and environmental issues and enhances Project benefits. The details regarding the quantification and mitigation of impacts (refer EIA/EMP section of the EIA report).

This section highlights the process that was followed, and describes the following: CPP objectives and methodology; Issues, concerns and suggestions from I & APs; and recommendations for actions to address these issues and concerns. I & APs will continue to be involved throughout the life of the Project, including after the EIA authorization phase. This section serves as a support to the EIA Report. The Project will progress to the next phase only if no fatal flaws are identified during: Consultation with I & APs and, especially, with regulating authorities, and during the course of conducting the various specialist studies.

Public Participation is an important tool in the EIA decision-making process. Consultation with the I & APs is the only meaningful way through which to understand locally relevant conditions and dynamics. The result of an effective CPP would understand the key issues affecting all the stakeholders and the generation of new alternatives and solutions to any identified challenges. The specific objectives of the public participation process were to:



- Identify I & APs for the Project;
- Disseminate accurate Project information to all I & APs;
- Gather information that would contribute to the environmental investigations;
- Demonstrate that the proponent is committed to effective management of its legal obligations and environmental responsibility;
- Form partnerships that promote constructive action between all parties;
- Manage I & AP expectations;
- Address potential conflicts that may arise; and
- Record and attempt to address public concerns, issues, and suggestions.

## 5.2 Interviews with the Public

Structured questionnaires were administered to neighbors and the public who didn't have an opportunity to attend planned meetings to find out all the views in regard to the project.

## 5.3 Concerns Raised

Arising from the CPP exercises; a number of key concerns were raised that should be addressed in the proposed programme as discussed below.

### 5.3.1 Water Pollution

Development activities including road construction, building of market centers, sanitation facilities, farming practices, and logging are likely to contribute to water pollution if certain precautions are not taken into consideration. The water sources should be delineated and protected.

### 5.3.2. Deforestation

During project implementation the settlers will need immediate fuel wood and construction materials that will be sourced from the forest if alternative sources are not

provided. They suggested that they be provided with some construction materials and seedlings for agro forestry.

### **5.3.3 Soil Erosion**

During and after project implementation which will involve excavations in roads and construction sites, cattle trucks, foot paths and cultivation in farms will expose soil to erosion and subsequently pollute water sources through siltation, if soil conservation measures are not adopted.

### **5.3.4 Increase in Crime**

Project implementation, will attract more people into the area seeking employment, business especially in the farms and local market centers. This large numbers of immigrants may lead to increase of crime in the area.

## **6.0 ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

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### **6.1. Introduction**

This chapter outlines the potential negative and positive impacts associated with the settlement programme and their mitigation measures. The impacts will be related to activities to be carried out during occupation phase of the project.

### **6.2 Positive Environmental Impacts**

The programme will have several positive social and environmental impacts within the project area and beyond, as discussed below:

#### **6.2.6 Improved Education Levels**

The schools to be constructed within the settlement scheme will lead to improved education levels.

#### **6.2.2 Improved Housing facilities**

The squatters have temporary and poorly maintained housing facilities because they have no incentives to invest on land that is not theirs (Plate 6.1). Implementation of the proposed resettlement programme will motivate the beneficiaries to improve their housing facilities.

#### **6.2.3 Improved Economic Growth**

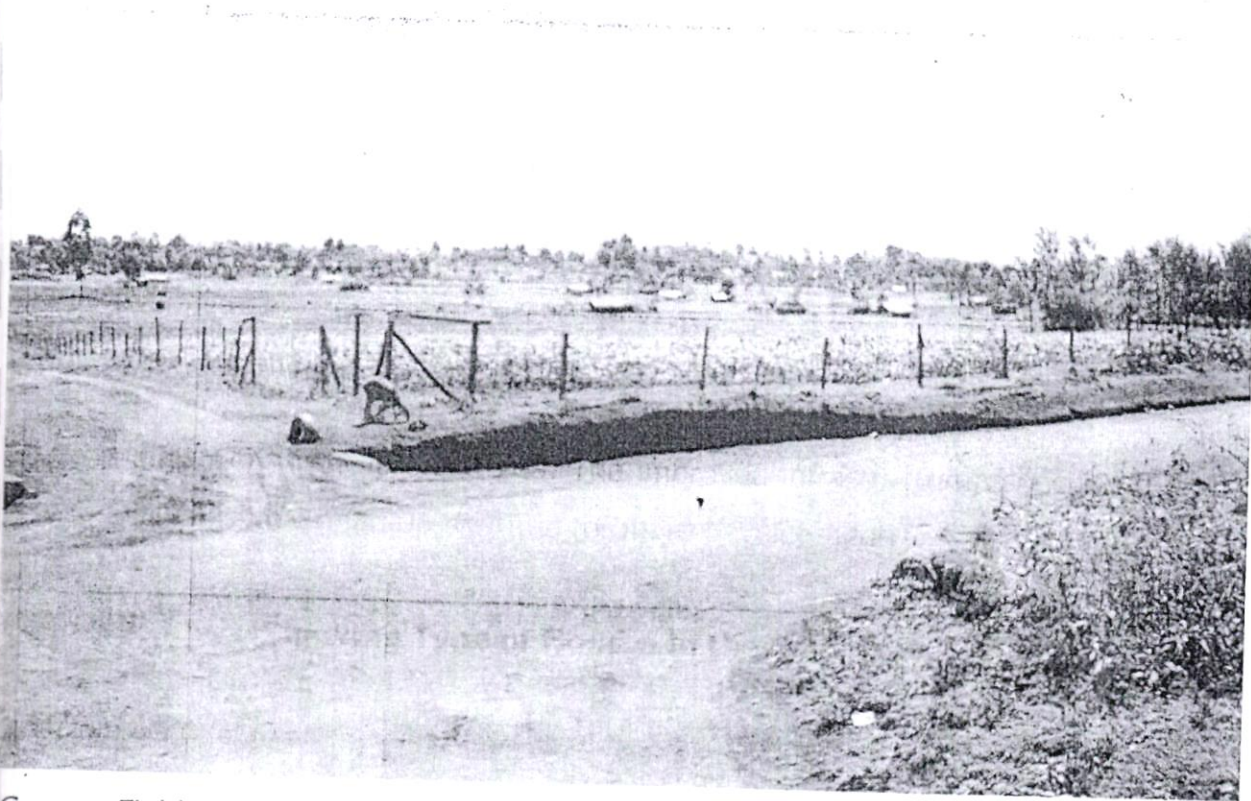
The project area has very high agricultural potential. The resettlement programme will lead to improved infrastructure thus easier accessibility, and efficient and effective marketing systems for the agricultural produce thereby increase their income.

#### **6.2.4 Improved infrastructure**

The resettlement programme will be accompanied with improved infrastructural facilities such as roads, water supply, electricity, health, education and

telecommunication in the project area. The improved infrastructure especially the road network will definitely open up the area for more development.

**Plate 6.1: Photo Showing Type of Houses in the Scheme**



*Source: Field Survey, 2011*

### **5.2.5 Creation of Job Opportunities**

Once the people have been provided with title deeds for their farms, they will be motivated to produce more and therefore need more labor and hence creating opportunities for employment in the farms, transport industry and other trading activities.

## **6.3 Negative Environmental Impacts and their Mitigation Measures**

### **6.3.1 Stress on Water Resources**

Formalizing the settling of the beneficiaries in the area will lead to: increased water demand, Loss of spring sources and wetlands due to human activities, Siltation of rivers and water supplies due to cultivation activities, Pollution of water (domestic waste, pit latrines, market runoff, and livestock waste), Water borne diseases and the destruction of water catchment areas.

#### **Mitigation Measures for Stress on Water Resources**

To address the stress on water resources, the following mitigation measures should be adopted:

- Assist the community to protect the local springs and wetlands
- Promote rain water harvesting practices in the area
- Facilitate soil and water conservation measures in the farms
- Practice water pollution control measures
- Avoid directing the surface runoff from the roads to the water sources
- To built the pit latrines upstream of shallow wells and not near wetlands and springs
- Practice farming methods that enhance water recharge to ensure sustainable water supply.

### **3.2 Air Pollution**

The programme will involve construction activities that will generate dust and other particles that will pollute the air. The increased number of settlers whose 80% energy is fuel wood will increase carbon concentration in the air due to smoke from homes and emissions from the proposed factories; this might lead to air pollution in the area.

#### **Mitigation Measures to Address Air Pollution**

The mitigation measures for dust generation will be minimized by:

- Sprinkling water during construction activities to minimize dust
- Increase agro forestry to act as carbon sinks

### 6.3.3 Waste Generation

There will be a lot of solid waste generated from homes, urban centers, institutions and construction activities, such waste will include organic waste (food), plastic papers, cloth material, stones, wood, broken glasses, containers, rods of metal, sharp objects (nails) etc.

To address solid waste the following proposed mitigation measures should be adopted:

- Provide appropriate and adequate refuse and waste collection measures and facilities
- Provide for waste segregation at source for efficient management
- Provide for toxic and hazardous waste containment and disposal
- Develop clean up plans for wastes

### 6.3.4 Noise Pollution and Vibrations

There will be noise and vibrations produced from construction activities which will be temporary.

#### Mitigation measures

- Provide protective gears to the construction workers
- Limit the working time to day time only
- Observe the NEMA recommended noise and vibration regulations

### 6.3.5 Soil Erosion

The terrain of the scheme area is sloppy thus due to increased cultivated area, poor farming methods, road construction, livestock paths, the area is prone to high soil erosion.

### **Mitigation measures**

To conserve soil the following should be adopted:

- Practice soil conservation measures like terracing
- Improve soil management practices to increase infiltration of surface runoff, and improve water retaining capacity
- Promote appropriate tillage practices
- Minimize soil exposure through intensive cropping patterns

### **6.3.6 Deforestation**

Deforestation of the forest is a major impact which will be due to firewood collection, increased demand for construction materials and timber for the new settlers leading to reduction of forest cover, forest degradation, and reduction of carbon sinks thus contributing towards global warming

### **Mitigation measures to address deforestation**

To address deforestation the following mitigation measures should be adopted:

- Re-vegetate cleared forest areas as soon as possible
- Involve local leaders in the management of forests to avoid illegal harvesting and settlement
- Establish clear, long term jurisdiction over the forests emphasizing local participation in decision making
- Provide free tree seedlings to the community
- Increased communal awareness on the importance of the forest
- Use of energy saving jikos by the community

### **6.3.7 Loss of Biodiversity**

Settlement of the people in the area will enhance cultivation which will lead to loss of rare and unique plant and animal species e.g. medicinal plants Introduction of new plant species (exotic varieties which may be detrimental to the environmental quality)

### **Mitigation measures**

- Delineating and protecting rare species sites
- Careful selection (scientific) of the new plant species to be introduced in the settlement scheme

### **6.3.8 Destruction of Ecologically Sensitive Areas**

The resettlement program involved settling people on ecologically sensitive areas such as wetlands, wildlife breeding sites and water recharge points. This may lead to ecological imbalance.

#### **Mitigation measure to address ecologically sensitive areas**

- Protect all the ecologically critical areas such as wetlands, riparian zones e.tc. by clear delineation and planting of suitable indigenous plant species
- Set aside land for tree nurseries.
- Sensitize the community on conservation of water catchment areas



## 7.0 CONFLICT RESOLUTION STRATEGY

It is important to address any disputes or land related problems as they arise. In addition it is strongly suggested that involvement of the community representatives in decision making especially on matters affecting their social-economic aspects should be emphasized. In that regard the Lead Expert used the availed information to develop a conflict resolution strategy as shown in table 7.1 below

**Table 7.1: Conflict Resolution Strategy**

| NO. | Possible Source of Conflict  | Proposed Strategy  | Responsibility  |
|-----|--|--|---|
| 1.  | -Poor Vetting/ criteria<br>-Double allocation<br>-Favoritism   | -Government to facilitate<br>-Community to be given leeway to choose their representatives to the vetting committee<br>-Using public community meetings to ascertain the needy cases(the landless) | -Government<br>-Civil society,<br>-Religious institutions |
| 2.  | -Politics  | -Delinking politics from land issues<br>-Sensitization of the local community on political incitement and its implications   | -Civil society<br>-Government                             |
| 3.  | -Dragging implementation of the resettlement programme, leading to suspicions of possible manipulations of the process<br>-increased number of beneficiaries over time, hence need for more land | -systematic and quick completion the registration programme  | -Government   |
| 4.  | -Unequal acreage of allocation   | -Ensuring equal allocation of the land   | -Government   |

|    |   |  |                                     |
|----|---|--|-------------------------------------|
| 5. | -Reduction of plots acreage allocated for public utility in the initial allocation plan | -Avoid reduction if not justifiable<br>-If justifiable then keep the community informed and ensure agreement | -vetting committee<br>-Government   |
| 6. | -Delay in issuing of title deeds  | -Fast tracking the issuance of title deeds   | -Government                         |
| 7. | -Lack of transparency in dealing with resettlement land matters                         | -Ensure transparency in all issues related to the resettlement programme                                     | -Government<br>-Relevant committees |
| 8. | -Unsecured forest lands   | -Clear demarcation and protection of the forest  | -Government<br>-Community           |

This section summarizes the earlier discussion on the programme impacts and mitigation measures that would be adopted into the project plan to reduce and eliminate potential impacts. The main objective of the EMP is to guide the proponent to systematically address the impacts at various project phases. It represents a plan for monitoring and managing impacts during project implementation, and outlines which activities will be undertaken by the proponent.

**Table 8.1 Environmental Management Plan During the Construction Phase**

| Environmental Aspect | Source of Impact                    | Impacts  | Environmental Management Measure in Place/Proposed   | Responsibility | Timeframe of implementation |
|----------------------|-------------------------------------|--|--|----------------|-----------------------------|
| Waste Generation     | -Earth from excavation at the site, | -A creation of breeding grounds for vermin which may lead to an increase in the incidence of vermin-spread | -Ensure the collection of all waste in a designated area. The waste should also be sorted to separate the reusable/recyclable waste from the rest,<br>-Non | -Beneficiaries | Continuous                  |

|             |   |   |   |  |             |
|-------------|---|---|---|--|-------------|
|             |   | <p>diseases,<br/>         -- Dispersal of wastes by agents such as wind and/or water,<br/>         -- Burning of waste may lead to uncontrolled fires which may cause destruction of property</p> | <p>reusable/recyclable waste should be disposed in the designated dumping site,</p> |  |             |
| Air Quality | -Dust generation from site clearance and excavation activities, | -Possible air pollution causing a compromise in the   | -Ensure that all machinery and vehicles are regularly serviced and well             |  | -continuous |

|                 | <ul style="list-style-type: none"> <li>-Delivery of materials such as sand and ballast,</li> <li>-Emissions from delivery vehicles and construction equipment.</li> </ul> | <ul style="list-style-type: none"> <li>-Contribution to global warming, acid rain, and local health problems</li> </ul>                         | <ul style="list-style-type: none"> <li>-Dust generated during excavation and delivery of construction inputs can be managed through sprinkling of the site with water,</li> <li>-Ensure that transport of materials and wastes is done in covered trucks to contain any dust.</li> </ul> |  |  |
|-----------------|---|---|--|--|--|
| Water resources | <ul style="list-style-type: none"> <li>-Sediments from construction of roads</li> <li>-Assumption of environmental hot spots during</li> </ul>                            | <ul style="list-style-type: none"> <li>-Pollution of water due to sediments</li> <li>-Destruction of wetlands, water recharge points</li> </ul> | <ul style="list-style-type: none"> <li>-Ensure all debris due to construction are well disposed or backfilled</li> <li>-Ensure conservation of environmental</li> </ul>  |  |  |

|                 |   |  |  |            |  |
|-----------------|---|--|--|------------|--|
|                 | <ul style="list-style-type: none"> <li>-Survey</li> <li>-Construction of pit latrines</li> </ul>                                  | <ul style="list-style-type: none"> <li>and other environmental hot spots</li> </ul>  | <ul style="list-style-type: none"> <li>hot spots like wetlands</li> <li>-Delineating and protecting wetlands and environmental hot spots</li> </ul>  |            |  |
| Noise Pollution | <ul style="list-style-type: none"> <li>-Construction activities</li> </ul>  | <ul style="list-style-type: none"> <li>-No significant impact anticipated on neighbours</li> <li>-Possible discomfort among workers</li> </ul> | <ul style="list-style-type: none"> <li>- Measures should be put in place to prevent unnecessary noise from the equipment and tools used in order to avoid discomfort and nuisance among the construction workers.</li> </ul> | Contractor |  |
| Soil Resources  | <ul style="list-style-type: none"> <li>-Excavation and transfer of soil</li> <li>-Compaction of the site by machinery/</li> </ul> | <ul style="list-style-type: none"> <li>-Possible depletion of the soil resource</li> <li>-Soil sealing from</li> </ul>                         | <ul style="list-style-type: none"> <li>-Ensure that minimal soil is excavated or disturbed. The excavated soil should also be used as much</li> </ul>  | Contractor |  |

|  |          |  |  |  |  |
|--|----------|--|--|--|--|
|  | vehicles | contamination causing increased runoff | as possible at the site in landscaping purposes to reduce the net soil transferred from the site |  |  |
|--|----------|--|--|--|--|

**Table 8.2 Environmental Management Plan during the Operation/Occupation Phase**

| <b>Environmental Aspect</b> | <b>Source of Impact</b>  | <b>Impacts</b>  | <b>Environmental Management Measure in Proposed</b>   | <b>Responsibility</b>   | <b>Timeframe of Implementation</b> |
|-----------------------------|--|---|---|---|------------------------------------|
| Soil erosion & pollution    | <ul style="list-style-type: none"> <li>-Poor cultivation methods</li> <li>-Steep slopes</li> <li>-Destruction of Riparian vegetation</li> <li>-Agro chemicals</li> </ul> | <ul style="list-style-type: none"> <li>-Loss of fertility</li> <li>-River/ water supply siltation</li> <li>-Famine</li> <li>-Poisoning of humans and animals</li> </ul> | <ul style="list-style-type: none"> <li>-Educate, train and encourage the community to practice good methods of cultivation and land management including terracing to enhance soil</li> </ul> | <ul style="list-style-type: none"> <li>- The government(agricultural officer, irrigation officer)</li> <li>- Beneficiaries</li> <li>- Stakeholders</li> </ul> | Continuous                         |

|        |  |   | use on  |   |                   |
|--------|--|---|---|---|-------------------|
|        |  |   | <ul style="list-style-type: none"> <li>-Demarcate riparian zones for Conservation</li> <li>- Safe use of agro chemicals and Disposal</li> </ul>   |   |                   |
| Forest | <ul style="list-style-type: none"> <li>-Deforestation</li> <li>-Firewood fetching</li> <li>-Construction materials</li> <li>-Charcoal burning</li> </ul> | <ul style="list-style-type: none"> <li>-Loss of biodiversity</li> <li>-Change of climate, reduction of carbon sinks thus contributing towards global warming</li> </ul> | <ul style="list-style-type: none"> <li>-Fence and protect the forest from encroachment.</li> <li>-Avoid disturbances as much as possible</li> <li>-The beneficiaries to practice farm plantation to provide them with firewood energy</li> <li>- Introduce alternative sources of energy</li> </ul> | <ul style="list-style-type: none"> <li>- Government officials (forester, agricultural officer, environmental officer)</li> <li>- Stakeholders</li> <li>- Farmers</li> </ul> | During occupation |



| Quality         | Factory processes  | Potential   | -Different  | -Government  | During occupation  |
|-----------------|--|---|---|--|--|
|                 |  | <ul style="list-style-type: none"> <li>global warming</li> <li>-Potential cause of pneumatic illnesses</li> </ul>                             | <ul style="list-style-type: none"> <li>Environmental Impact</li> <li>Assessment for each factory to be constructed be done</li> </ul>   |  |  |
| Sanitation      | <ul style="list-style-type: none"> <li>-Poorly sited facilities and constructed latrines</li> </ul>  | <ul style="list-style-type: none"> <li>-Pollution of both ground and surface waters</li> <li>-Transmission of water borne diseases</li> </ul> | <ul style="list-style-type: none"> <li>-Proper siting of latrines -</li> <li>-Introduction of septic tanks</li> <li>-Provide piped water/sewer system</li> </ul>                  | <ul style="list-style-type: none"> <li>-Government</li> <li>-Beneficiaries</li> <li>-Stakeholders</li> </ul>       |  |
| Water Resources | <ul style="list-style-type: none"> <li>-Improper disposal of the wastewater,</li> <li>-Construction of latrines at the river valleys</li> <li>-Cultivation of</li> </ul> | <ul style="list-style-type: none"> <li>-Pollution of the available springs and rivers</li> </ul>  | <ul style="list-style-type: none"> <li>-The community to be educated on conservation of riparian reserves and shown where not to cultivate</li> <li>-Surveyors to take</li> </ul> | <ul style="list-style-type: none"> <li>- Public Health Officer</li> <li>- Beneficiaries</li> <li>- do -</li> </ul> | <ul style="list-style-type: none"> <li>During occupation</li> <li>- do-</li> </ul> |

|                        |  |  |  |   |            |
|------------------------|--|--|--|---|------------|
|                        | <ul style="list-style-type: none"> <li>reserves</li> <li>--Cattle drinking directly from the rivers</li> </ul>           |  | <ul style="list-style-type: none"> <li>riparian reserves</li> <li>-Latrines should be dug to the standard height and at the right places far from the river valleys</li> <li>--All the water springs to be protected</li> <li>cattle drinking points be constructed</li> </ul> |   |            |
| Waste water management | <ul style="list-style-type: none"> <li>-Urban runoff</li> <li>-Kitchen waste</li> <li>-Water from cattle dips</li> </ul> | <ul style="list-style-type: none"> <li>-Pollution of water sources</li> <li>-Diseases</li> </ul>                           | <ul style="list-style-type: none"> <li>-Proper disposal of waste water</li> </ul>  | <ul style="list-style-type: none"> <li>- Government</li> </ul>  | Continuous |
| Solid waste management | <ul style="list-style-type: none"> <li>--Institutions and market centres</li> </ul>                                      | <ul style="list-style-type: none"> <li>-Littering</li> <li>-Loss of aesthetic value</li> <li>-Loss of livestock</li> </ul> | <ul style="list-style-type: none"> <li>-Introduce solid waste receptacles</li> <li>-Sort out waste at source</li> <li>-Promote reduce,</li> </ul>  | <ul style="list-style-type: none"> <li>- Government</li> <li>- Beneficiaries</li> <li>- Stakeholders</li> </ul> | Continuous |

|  |  | -• Pollution of  | -• Waste and Recycling  |  |  |
|--|--|--|---|--|--|
|  |  | water<br>sources<br>-• Blockage of<br>drainage<br>Channels | of the waste<br>-Built incinerators<br>-Designate disposal<br>sites |  |  |

It is important to note that the estimation of the possible costs to manage the potential adverse impacts on the environment will vary over time and it's not necessary to quantify, hence omission from the EMP.

## 10.0 CONCLUSIONS AND RECOMMENDATIONS

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From the analysis given, it is evident that all the positive impacts outweigh the negative ones hence the project is beneficial. However, there exist some key environmental concerns, which the proponent should address by implementing the proposed environmental management plan. This way, the negative impacts will be minimized and the project will not have any significant negative impacts on both human and natural environment.

Considering the information collected during the study and views and comments of the public and the stakeholders, the following recommendations were arrived at:

- The proposed programme is implemented as per the planned timeframe and the principle of transparency and accountability be upheld at all levels.
- The adjudication of the plots for the beneficiaries, institutions and public utilities take cognizance of conservation of the ecologically sensitive areas.
- The government agencies, beneficiaries and stakeholders participate in the integrated planning and implementation of the project.
- The proponent and the beneficiaries adhere to the proposed environmental management plan as a guide to mitigate potential adverse impacts.
- The proponent to undertake environmental audit of the resettlement programme after twelve months.

An additional 1000 acres to be set apart to accommodate a fully fledged university and settle squatters occupying the environmentally fragile areas.

## REFERENCES

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- GOK 1986:** Sensational Paper no 1 of 1986 on Development Prospects and Policies, Government Printers
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- GOK 2000:** Kenya Gazette Supplement Acts 2000, Environmental Management and Coordination Act, Number 8 of 1999, Government Printer, Nairobi.
- GOK 2000:** Kenya Gazette Supplement Acts, Building Code 2000, Government Printer, Nairobi.
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- Kenya Gazette Supplement Acts, Public Health Act (Cap. 242), Government Printer, Nairobi.
- Kenya Gazette Supplement Acts, Water Act 2002, Government Printer, Nairobi.
- Kenya Gazette Supplement Number 56. Environmental Impact and Audit Regulations 2003, Government Printer, Nairobi.

**APPENDICES**

**APPENDIX 1**

**AUTUMA CENTRAL SETTLEMENT SCHEME QUESTIONNAIRE**

**Either Tick or write down your response:**

1. State your relationship with the above Project (Neighbour, Visitor, Squatter)

2. Sex (Male/Female).

3. Age.....

4. Have you ever attended any environmental awareness course/seminar?. Yes/No

5. Do you live in the neighbourhood of this settlement scheme? (Yes/No)

5. How far do you reside from this settlement scheme? .....Km.

7. State any environmental problems that you anticipate regarding the settlement scheme (land, air or water pollution, radiation, occupational hazards et ).....  
.....  
.....

8. What do you consider to be the negative impacts of this settlement scheme to the human + environment (health, housing, infrastructure, social, economic)?  
.....  
.....  
.....

**APPENDIX II**

The table consists of approximately 10 rows and 4 columns. The columns are defined by vertical lines, and the rows are defined by horizontal lines. The content within the cells is mostly blank, with some very faint, illegible markings or bleed-through from the reverse side of the page. The table appears to be a ledger or a record book.

**ANNEXES IV. PETITION BY RESIDENTS OF  
MAUTUMA SETTLEMENT SCHEME**





PARAMATI & ASSOCIATES  
ADVOCATES  
INDUATI & ASSOCIATES  
ADVOCATES

Our Ref: PGNK/GEN/L/SS/54/15  
Your Ref: TBA

1<sup>st</sup> December, 2015

The Clerk,  
National Assembly of Kenya,  
Kenya National Assembly  
Parliament Buildings  
P.O Box 41842 - 00100,  
Nairobi, Kenya

Dear Sirs,

RE: PETITION FOR DEGAZZETEMENT OF LUGARI/TURBO FOREST

This has reference to the above wherein we act for the squatters of Mautuma Central Settlement Scheme in Lugari, Kakamega County.

Enclosed herewith please find the Petition by the squatters for resolution by Parliament on degazettment of lugari/turbo forest comprising the Mautuma Central Settlement Scheme.  
Kindly acknowledge receipt.

Yours faithfully,  
For: PGNK & Associates Advocates

L.Nduati

JN/

[jnduati@pgnkadvocates.com](mailto:jnduati@pgnkadvocates.com)

Cc Client

**PARTNERS:**

Parantoi, T.N LLB(Hons),NBI, Dip.(KSL)  
Gaya, G.O LLB(Hons),NBI, Dip.(KSL)  
Nduati, J.I LLB(Hons),NBI, Dip.(KSL)

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P.O Box 37700

**BRANCH:**

Milele Centre,  
Nairobi/Namanga Rd.  
1st Floor. Block 101A

RE: PETITION TO PARLIAMENT UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION, PETITION TO PARLIAMENT (PROCEDURE) ACT, NO. 22 OF 2012, AND STANDING ORDER 220 AND 223 OF THE NATIONAL ASSEMBLY FOR RESOLUTION BY PARLIAMENT ON DEGAZETTEMEN OF 1,577.86 HECTARES OF LUGARI/TURBO FOREST COMPRISING THE MAUTUMA CENTRAL SETTLEMENT SCHEME AND A FURTHER 2,428.12 HECTARES IN THE SAME SCHEME IN LUGARI CONSTITUENCY, KAKAMEGA COUNTY.

To: National Assembly of Kenya

C/O The Clerk,

Kenya National Assembly

Parliament Buildings

P.O Box 41842 - 00100,

Nairobi, Kenya

RE: PETITION TO PARLIAMENT UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION, PETITION TO PARLIAMENT (PROCEDURE) ACT, NO. 22 OF 2012, AND STANDING ORDER 220 AND 223 OF THE NATIONAL ASSEMBLY FOR RESOLUTION BY PARLIAMENT ON DEGAZETTEMEN OF 1,577.86 HECTARES OF LUGARI/TURBO FOREST COMPRISING THE MAUTUMA CENTRAL SETTLEMENT SCHEME AND A FURTHER 2,428.12 HECTARES IN THE SAME SCHEME IN LUGARI CONSTITUENCY, KAKAMEGA COUNTY.

WE, the undersigned,

Citizens of Kenya, representing squatters from The Mautuma Central Settlement Scheme, wish to state that it is in the interest of the squatters of The Mautuma Central Settlement Scheme, the undersigned individuals, formally lodge this petition concerning the de-gazettement of 1,577.86 Hectares of Lugari/Turbo forest and a further 2,428.12 Hectares in the same scheme.

WE DRAW the attention of the House to the following:

1. The Constitution of Kenya 2010 reposes all sovereign authority in the People of Kenya.

RE: PETITION TO PARLIAMENT UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION, PETITION TO PARLIAMENT (PROCEDURE) ACT, NO. 22 OF 2012, AND STANDING ORDER 220 AND 223 OF THE NATIONAL ASSEMBLY FOR RESOLUTION BY PARLIAMENT ON DEGAZETTEMET OF 1,577.86 HECTARES OF LUGARI/TURBO FOREST COMPRISING THE MAUTUMA CENTRAL SETTLEMENT SCHEME AND A FURTHER 2,428.12 HECTARES IN THE SAME SCHEME IN LUGARI CONSTITUENCY, KAKAMEGA COUNTY.

2. The People of Kenya have delegated legislative authority to Parliament as the representatives of the People.
3. The squatters of The Mautuma Central Settlement Scheme were settled in the land comprising the Lugari/Turbo forest way back in the year 1992 by former President Daniel Arap Moi and are therefore the legitimate occupiers of about 1,577.86 Hectares or thereabouts in the Lugari/Turbo forest.
4. As the legitimate occupiers of the said land that was set aside for them, the squatters of The Mautuma Central Settlement Scheme do not have the legal title for the said land which in effect exposes the squatters to, amongst others, land grabbing, alien occupation, and eviction.
5. The squatters of The Mautuma Central Settlement Scheme have also been denied their right to property as enshrined in the Constitution of Kenya and the benefits that come with ownership and title to land.
6. The Kenya Forest Act, Cap 385 laws of Kenya, provides for the mechanism and procedure for variation of boundaries or revocation of state or local authority forests.
7. Under section 28 of The Kenya Forest Act, Cap 385 laws of Kenya, The Kenya Forest Service which fall under the Ministry of Environment and Natural Resources is mandated with variation of forest boundaries through recommendation after due process has been followed.
8. The recommendation by the Kenya Forest Service should be approved by resolution of parliament before the Cabinet Secretary publishes the Gazette Notice effecting de-gazettement of forest land.

RE: PETITION TO PARLIAMENT UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION, PETITION TO PARLIAMENT (PROCEDURE) ACT, NO. 22 OF 2012, AND STANDING ORDER 220 AND 223 OF THE NATIONAL ASSEMBLY FOR RESOLUTION BY PARLIAMENT ON DEGAZETEMENT OF 1,577.86 HECTARES OF LUGARI/TURBO FOREST COMPRISING THE MAUTUMA CENTRAL SETTLEMENT SCHEME AND A FURTHER 2,428.12 HECTARES IN THE SAME SCHEME IN LUGARI CONSTITUENCY, KAKAMEGA COUNTY.

9. Due process has been followed to the letter including public participation, environmental impact assessment and approval by cabinet. The Cabinet Memorandum has in fact been forwarded to Kenya Forest Service for delivery to parliament.
10. The delay in the de-gazettement, which is now long overdue, is holding other processes to go on such as demarcation and issuance of title to genuine squatters who are being identified through an elaborate vetting process.
11. The number of squatters and their families in the scheme has been raising at an alarming rate since the first allotment of 1,577. 86 Hectares causing perennial problems of overcrowding.
12. A further 2,428.12 Hectares has since been identified to settle the ever growing number of squatters once and for all. It is therefore the wish of the squatters to have this further 2,428.12 Hectares of Lugari/Turbo forest de-gazetted to accommodate them.

THAT

13. The Ministry of Environment and Natural Resources, through the Kenya Forest Service is mandated to deliver de-gazettement recommendation for resolution by parliament.
14. That the Ministry has delayed in delivering its recommendation to parliament despite being prevailed upon through various correspondences by the area Member of Parliament and the National Land Commission to expedite on the same.

RE: PETITION TO PARLIAMENT UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION, PETITION TO PARLIAMENT (PROCEDURE) ACT, NO. 22 OF 2012, AND STANDING ORDER 220 AND 223 OF THE NATIONAL ASSEMBLY FOR RESOLUTION BY PARLIAMENT ON DEGAZETTEMET OF 1,577.86 HECTARES OF LUGARI/TURBO FOREST COMPRISING THE MAUTUMA CENTRAL SETTLEMENT SCHEME AND A FURTHER 2,428.12 HECTARES IN THE SAME SCHEME IN LUGARI CONSTITUENCY, KAKAMEGA COUNTY.

THAT

15. To the best of our knowledge there in no matter before courts, constitutional or legal body touching on the matter of de-gazettement of 1,577.86 hectares of lugari/turbo forest comprising The Mautuma Central Settlement Scheme in Lugari Constituency, Kakamega County.

THEREFORE, your humble Petitioners PRAY that:

16. That this Petition be dealt with immediately in view of the urgency of this matter and the seriousness of the issues raised.

17. That the Speaker of the House invoke his mandate and duty to call for the recommendation of the The Ministry of Environment and Natural Resources. through the Kenya Forest Service, so as to enable resolution by Parliament on the de-gazettement of 1,577.86 hectares of lugari/turbo forest comprising The Mautuma Central Settlement Scheme in Lugari Constituency, Kakamega County.

18. That the Speaker of House and/or the relevant committee of the house invoke their mandate and duty to summon the Cabinet Secretary for Environment and Natural Resources to explain the reasons for delay.

And your PETITIONERS will ever PRAY.

Petitioned and dated at LUGARI this 27<sup>th</sup> day of NOVEMBER, 2015

RE: PETITION TO PARLIAMENT UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION, PETITION TO PARLIAMENT (PROCEDURE) ACT, NO. 22 OF 2012, AND STANDING ORDER 220 AND 223 OF THE NATIONAL ASSEMBLY FOR RESOLUTION BY PARLIAMENT ON DEGAZETTEMET OF 1,577.86 HECTARES OF LUGARI/TURBO FOREST, COMPRISING THE MAUTUMA CENTRAL SETTLEMENT SCHEME AND A FURTHER 2,428.12 HECTARES IN THE SAME SCHEME IN LUGARI CONSTITUENCY, KAKAMEGA COUNTY.

|     | NAME OF PETITIONER   | FULL ADDRESS     | NATIONAL ID OR PASSPORT NUMBER | SIGNATURE      |
|-----|----------------------|------------------|--------------------------------|----------------|
| 1.  | CHARLES K. KOFIA     | Box 678<br>TURBO | 1232070                        |                |
| 2.  | JUSTUS MULATI WASIKE | Box 178<br>TURBO | 0922412                        |                |
| 3.  | FRED W CHON-E        | Box 71 TURBO     | 6285780                        |                |
| 4.  | WILEVSTER M MAUKU    | Box 544<br>TURBO | 1436204                        |                |
| 5.  | BARASA CHESOI        | Box 544<br>TURBO | 1437458                        | BARASA         |
| 6.  | BENEDICTO M MACHO    | Box 520<br>TURBO | 1435057                        | Benedict       |
| 7.  | DISMAS LUVIYA        | Box 71 TURBO     | 0923927                        |                |
| 8.  | JUMA MAYEMDE         | Box 250<br>TURBO | 6335604                        |                |
| 9.  | GETRUTA WASWA        | Box 71 TURBO     | 1437860                        |                |
| 10. | TERMIN SHIKUTWA      | Box 721<br>TURBO | 0923359                        |                |
| 11. | ERICK S MACHO        | Box 128<br>TURBO | 0922499                        | Emach          |
| 12. | MANUEL MILIMO        | Box 780<br>TURBO | 4361725                        | Manuel         |
| 13. | PATRICK KEYA         | Box 178<br>TURBO | 6280909                        |                |
| 14. | ROSEMARY N. MUNYASI  | Box 544<br>TURBO | 1437293                        |                |
| 15. | PATRICK VISUCHE      | Box 178<br>TURBO | 6625541                        |                |
| 16. | EDUARD MALAMBA       | Box 178<br>TURBO | 1437018                        | EDUARD MALAMBA |

RE: PETITION TO PARLIAMENT UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION, PETITION TO PARLIAMENT (PROCEDURE) ACT, NO. 22 OF 2012, AND STANDING ORDER 220 AND 223 OF THE NATIONAL ASSEMBLY FOR RESOLUTION BY PARLIAMENT ON DEGAZETTEMET OF 1,577.86 HECTARES OF LUGARI/TURBO FOREST COMPRISING THE MAUTUMA CENTRAL SETTLEMENT SCHEME AND A FURTHER 2,428.12 HECTARES IN THE SAME SCHEME IN LUGARI CONSTITUENCY, KAKAMEGA COUNTY.

|     |                       |                  |                               |                   |
|-----|-----------------------|------------------|-------------------------------|-------------------|
| 17. | JAFRED WANTALA MILION | Box 987<br>TURBO | 0924331                       | JAFRED            |
| 18. | ELIUD NAMASAMBU       | Box 71<br>TURBO  | 0923998                       | ELIUD             |
| 19. | WHYCLIFFE MASIBO      | Box 987<br>TURBO | 0876820                       | MASIBO            |
| 20. | PETER SINDANI         | Box 178<br>TURBO | 0992247                       | PETER             |
| 21. | PATRICK S. WANJALA    | Box 987<br>TURBO | 0922457                       | Patrick Wanjala   |
| 22. | PIUS N. KOFURU        | Box 71<br>TURBO  | 0922985                       | PIUS N. KOFURU    |
| 23. | AGOSTINO K. LUKA      | Box 71<br>TURBO  | 14123863                      | Agostino          |
| 24. | JAFRED W. ABRAHAM     | Box 987<br>TURBO | 1437412                       | JAFRED W. ABRAHAM |
| 25. | FRANCIS WAMBUTO       | Box 987<br>TURBO | 1437254                       | FW                |
| 26. | WHYCLIFFE KOFURU      | Box 71<br>TURBO  | 0923663                       | WKOFURU           |
| 27. | DAVID MALAVA          | Box 678          | 0923663                       | DAVID             |
| 28. | PATRICK W. MAKORITA   | Box 987<br>TURBO | 5674322                       | Patrick           |
| 29. | JAPHETH LUNGVI        | Box 71<br>TURBO  | 09227822                      | Japheth Lungvi    |
| 30. | ALEX LUKA             | Box 71<br>TURBO  | 1934220001                    | ALEX              |
| 31. | JOSEPH NANJAKA KHISA  | Box 987<br>TURBO | 0927417                       | JOSEPH            |
| 32. | DAVID TAIFA           | Box 178<br>TURBO | 7349623<br><del>1437412</del> | David Taifa       |

RE: PETITION TO PARLIAMENT UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION, PETITION TO PARLIAMENT (PROCEDURE) ACT, NO. 22 OF 2012, AND STANDING ORDER 220 AND 223 OF THE NATIONAL ASSEMBLY FOR RESOLUTION BY PARLIAMENT ON DEGAZETTEMET OF 1,577.86 HECTARES OF LUGARI/TURBO FOREST COMPRISING THE MAUTUMA CENTRAL SETTLEMENT SCHEME AND A FURTHER 2,428.12 HECTARES IN THE SAME SCHEME IN LUGARI CONSTITUENCY, KAKAMEGA COUNTY.

|     |                                |                  |                    |               |
|-----|--------------------------------|------------------|--------------------|---------------|
| 33. | CONSTANT K. WANYONYI           | Box 178<br>TURBO | 0922842            | ACW           |
| 34. | PAUL LITI                      | Box 678<br>TURBO | 0923889            | Pauli         |
| 35. | FESTO W. MAKANA                | Box 678<br>TURBO | <del>0923889</del> | Festo Makana  |
| 36. | FRED W. WAYONGO                | Box 987<br>TURBO | 0927308            | Fred Wayong   |
| 37. | RAJAB B. DWORA                 | Box 678<br>TURBO | 0923515            | Rajab Dwora   |
| 38. | MAKOKHA KILU                   | Box 71<br>TURBO  | 0922292            | M.K.          |
| 39. | PASKALI NABWANA                | Box 71<br>TURBO  | 5738197            | Paskali       |
| 40. | JOHN O. NAMUSIA                | Box 987<br>TURBO | 0927308            | John          |
| 41. | JAMIN M WASIKE                 | Box 987<br>TURBO | 0686807            | Jamin         |
| 42. | FESTO ODONDO                   | Box 987<br>TURBO | 16128312           | Festo Odondo  |
| 43. | CHARLES ODONDO                 | Box 71<br>TURBO  | 623321             | Charles       |
| 44. | DANIEL ODONDO                  | Box 71<br>TURBO  | 5581021            | Daniel Odondo |
| 45. | JWAIRAO JUMA                   | Box 978<br>TURBO | 0022588            | Jwaairo       |
| 46. | FRANCIS KUNDE<br>KARANJANI     | Box 678<br>TURBO | 1439799            | Francis Kunde |
| 47. | LEONIDAH NUNYAKHU<br>KARANJANI | Box 71<br>TURBO  | 0923412            | Leonidah      |
| 48. | SAMSON KITUI<br>KARANJANI      | Box 678<br>TURBO | 6871314            | Samson Kitui  |
|     |                                |                  | 1117529            | Samson        |



RE: PETITION TO PARLIAMENT UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION, PETITION TO PARLIAMENT (PROCEDURE) ACT, NO. 22 OF 2012, AND STANDING ORDER 220 AND 223 OF THE NATIONAL ASSEMBLY FOR RESOLUTION BY PARLIAMENT ON DEGAZETTEMET OF 1,577.86 HECTARES OF LUGARI/TURBO FOREST COMPRISING THE MAUTUMA CENTRAL SETTLEMENT SCHEME AND A FURTHER 2,428.12 HECTARES IN THE SAME SCHEME IN LUGARI CONSTITUENCY, KAKAMEGA COUNTY.

PETITION CONCERNING degazettement of 1,577.86 hectares of Lugari/Turbo forest comprising The Mautuma Central Settlement Scheme and a further 2,428.12 Hectares in the same scheme in Lugari Constituency, Kakamega County.

| <u>Name of Petitioner</u> | <u>Signature/Thumb Impression</u> |
|---------------------------|-----------------------------------|
| HARLES K. KOFIA           |                                   |
| JUSTUS M. ULATI WASIKE    |                                   |
| FRED W. CHONGE            |                                   |
| SYLVESTER M. MAUKO        | x                                 |
| BARASHA CHESOLI           | x BARASHA                         |
| BENEDICTO M. MACHO        |                                   |
| DISMAS LUVISIA            |                                   |
| JUMA MAYENDE              |                                   |
| SETRUTA WASWA             | x                                 |
| JERMIN SHIKUTWA           | x                                 |
| ERICK S. MACHO            |                                   |
| MANUEL MILIMO             |                                   |
| PATRICK KEYA              |                                   |
| ROSEMARY N. MUYASI        |                                   |
| PATRICK VISUCHE           | x                                 |

RE: PETITION TO PARLIAMENT UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION, PETITION TO PARLIAMENT (PROCEDURE) ACT, NO. 22 OF 2012, AND STANDING ORDER 220 AND 223 OF THE NATIONAL ASSEMBLY FOR RESOLUTION BY PARLIAMENT ON DEGAZETTEMET OF 1,577.86 HECTARES OF LUGARI/TURBO FOREST COMPRISING THE MAUTUMA CENTRAL SETTLEMENT SCHEME AND A FURTHER 2,428.12 HECTARES IN THE SAME SCHEME IN LUGARI CONSTITUENCY, KAKAMEGA COUNTY.

EDWARD MAMAMBA

JARED WANTALA MILION

ELIUD NANTASAMBU

WYCLIFFE MOSI BO

PETER SINDANI

PATRICK S. WANJALA

PIUS N. KUPOLI

AUGUSTINE K. LUKA

JARED W. ABRAHAM

FRANCIS WAMBUTO

WYCLIFFE KUPOLI

DAVID MALUKA

PATRICK W. MOKOKHA

JAPHETH LUYINGI

ALEX LUKA

JOSEPH WANJALA KHISA

DAVID FAIRA

JAMUN W. WAGKE

CONSTANT K WANYONYI

EDWARD

MAMAMBA

JARED

MILION

ELIUD

NANTASAMBU

WYCLIFFE

MOSI BO

PETER

SINDANI

PATRICK

S. WANJALA

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W. ABRAHAM

FRANCIS

WAMBUTO

WYCLIFFE

KUPOLI

DAVID

MALUKA

PATRICK

W. MOKOKHA

JAPHETH

LUYINGI

ALEX

LUKA

JOSEPH

WANJALA

KHISA

DAVID

FAIRA

JAMUN

W. WAGKE

CONSTANT

K. WANYONYI

RE: PETITION TO PARLIAMENT UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION, PETITION TO PARLIAMENT (PROCEDURE) ACT, NO. 22 OF 2012, AND STANDING ORDER 220 AND 223 OF THE NATIONAL ASSEMBLY FOR RESOLUTION BY PARLIAMENT ON DEGAZETTEMET OF 1,577.86 HECTARES OF LUGARI/TURBO FOREST COMPRISING THE MAUTUMA CENTRAL SETTLEMENT SCHEME AND A FURTHER 2,428.12 HECTARES IN THE SAME SCHEME IN LUGARI CONSTITUENCY, KAKAMEGA COUNTY.

|                         |                 |
|-------------------------|-----------------|
| DAVE LITI               | PWS             |
| FESTO WI MAKANA         | Festo mal       |
| FRED W. WAYONGO         | Fred W          |
| RAJIB B OVOOR           | Rajib W         |
| MAKOKHA KILIB           | MK              |
| PAKALI NAGYANA          | PAKALI          |
| JOHN O. NAMUSIA         | JOHN            |
| JAMUN M. WAIKWE         | J M WAIKWE      |
| FESTO ODONDO            | FESTO           |
| CHARLES ODONDO          | ODONDO          |
| DANIEL ODONDO           | DANIEL          |
| JWARA O. TUMA           |                 |
| FRANCIS KUNDU KARANI    | Francis K       |
| LEONIDA MUNYAKI RAPANDE | Leonida Rapande |
| SAMSON KITUL KARANI     | Samson          |
|                         |                 |
|                         |                 |
|                         |                 |

**ANNEXTURES V. Submission by the Ministry of  
Environment and Natural Resources**



487

**MINISTRY OF ENVIRONMENT AND NATURAL RESOURCES  
CABINET SECRETARY'S OFFICE**

Telegrams: "NATURE" Nairobi  
Telephone: 0254-20-2730808/9

FAX: +254-20 - 2734722  
E-mail: [cs@environment.go.ke](mailto:cs@environment.go.ke)  
Website: [www.environment.go.ke](http://www.environment.go.ke)

NHIF BUILDING  
RAGATI ROAD  
P.O. Box 30126 - 00100  
NAIROBI

Ref: DENR/1/17 VOL III

28<sup>th</sup> June, 2016

**Mr. Justin Bundi, CBS**

Clerk to the National Assembly  
Clerk Chambers  
Parliament Building  
P. O. Box 41842

**NAIROBI**

① D/committee

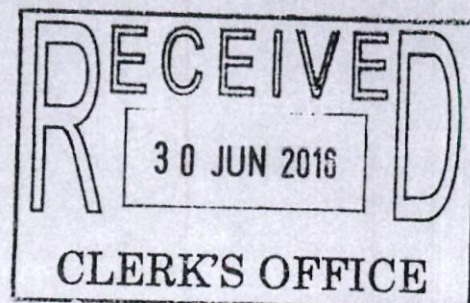
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FA 01/7

Dear *Mr. Bundi,*

**DEGAZZETTMENT OF MAUTUMA SETTLEMENT SCHEME OF  
TURBO FOREST RESERVE AREA – 1,577.86 Ha**

In accordance to Forests Act, 2005, degazettement of a forest area is subjected to following procedure under section 27 (b) part III which states that to declare that a forest cease to be a state or local forest, it shall only be published where the proposal is recommended by the service in accordance with subsection (2) and is subsequently approved by resolution of Parliament.

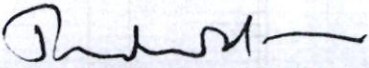
In case of Mautuma Settlement Scheme in Turbo Forest Reserve, there was a proposal for degazettement and the necessary procedures have been fully undertaken. It is now left to be taken to the Parliament for debate and resolution.



In this regard, the purpose of this letter is therefore to request you to present the proposal to the committee of Parliament on Environment and Natural Resources for comments and subsequent presentation to the Parliament.

The other two settlement Schemes, Chepyuk in Mt. Elgon, 4,647 Ha and Manzini Settlement Scheme in Turbo forest Reserve 1,241.5 Ha await the cabinet approval.

Yours *Suely,*

  
PROF. JUDI WAKHUNGU, EGH  
CABINET SECRETARY

629

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*Director - Comptroller*

**MINISTRY OF ENVIRONMENT AND NATURAL RESOURCES  
State Department of Natural Resources**

Telegrams: "NATURE", Nairobi  
Telephone: 0254 20- 2724725/2724646

NSSF Building, Block A 21<sup>st</sup> Floor  
Ngong Rd 5<sup>th</sup> Avenue  
P. O. BOX 30126  
NAIROBI

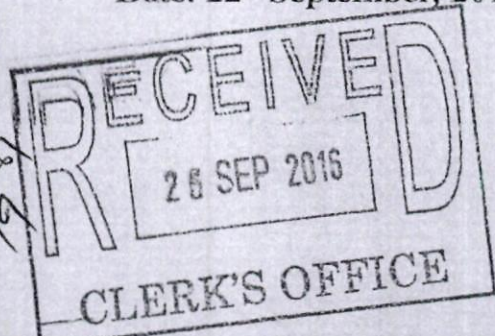
Email : [psnaturalresources@environment.go.ke](mailto:psnaturalresources@environment.go.ke)  
Website : [www.environment.go.ke](http://www.environment.go.ke)

Ref. No. DENR/C/1/27/(58)

Date: 22<sup>nd</sup> September, 2016

Clerk to the National Assembly  
Clerk Chambers  
Parliament Building  
P.O. Box 41842 - 00100  
NAIROBI

*Trace chebet  
pls TWA  
27/9*



**DOCUMENTS REQUIRED BY PARLIAMENTARY COMMITTEE ON  
ENVIRONMENT AND NATURAL RESOURCES FOR DEGAZETTEMEN  
OF MAUTUMA SETTLEMENT SCHEME**

During the meeting held at Parliament Building on 1<sup>st</sup> September, 2016 between  
Cabinet Secretary, Ministry of Environment and Natural Resources and the above  
committee, the following documents were required:-

- 1) The Environmental Impact Assessment (EIA) conducted for the scheme.
- 2) EIA License from NEMA
- 3) Evidence of Kenya Forest Service Board approval for the degazettement.
- 4) Evidence of Public Participation.

The purpose of writing this letter therefore is to forward the above documents to you  
for further necessary action.

Muchiri E.M.  
FOR: PRINCIPAL SECRETARY

Encls. 4

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I Certify that this is a true extract of the Minutes of the Board

Sign: *[Signature]* Date: 7/11/12  
CORPORATION SECRETARY  
KENYA FOREST SERVICE

### KENYA FOREST SERVICE

## MINUTES OF THE 23<sup>RD</sup> FULL BOARD MEETING HELD ON FRIDAY, 29<sup>TH</sup> JUNE 2012 AT KENYA FOREST SERVICE HEADQUARTERS AT 9.00 AM

### PRESENT

1. PROF. RICHARD S. MUSANGI, EBS - CHAIRMAN
2. MR. ONESMUS F. KIBUNA - REP. MINISTRY OF FORESTRY & WILDLIFE
3. MRS. FATUMA SICHALE, MBS - MEMBER
4. MR. JASWANT S. RAI, MBS - MEMBER
5. DR. JOSEPH L. NAKURRO - MEMBER
6. MR. E.A. OCHIENG - MEMBER
7. MR. JOSEPH M. MANG'IRA, EBS - MEMBER
8. MAJ. (RTD) DANIEL ING'OLLAN - MEMBER
9. PROF. GEOFFREY WAHUNGU - DIRECTOR GENERAL, NEMA
10. MR. OLINGA LONGOLE - REP. MINISTRY OF FINANCE
11. MR. PATRICK OMESA - REP. DIRECTOR KEFRI
12. MR. EDIN KALLA - REP. KENYA WILDLIFE SERVICE
13. MRS. JOYCE K. GICHOMO - REP. MINISTRY OF LOCAL GOVERNMENT
14. MR. DAVID K. MBUGUA - DIRECTOR KFS

### APOLOGY

15. MRS. MARGARET K. GITONGA - VICE CHAIRPERSON
16. ENG. P. L. OMBOGO - REP. MINISTRY OF WATER & IRRIGATION

### IN ATTENDANCE

- MS. ESTHER KEIGE - CORPORATION SECRETARY (Taking minutes)
- MR. J. M. WANYIRI - ASST. DIRECTOR

### MIN 11/2012: ADOPTION OF THE AGENDA

The Chairman called the meeting to order at 9.10 a.m. and welcomed members to the meeting. The following agenda was adopted as earlier circulated:-

1. Chairman's Opening Remarks
2. Confirmation of the Minutes of the 22<sup>nd</sup> Kenya Forest Service Full Board Meeting held on 30<sup>th</sup> March, 2012.
3. Matters Arising from the Minutes.
4. Director's Report.
5. Report of the 13<sup>th</sup> Finance Committee Meeting held on 8<sup>th</sup> June 2012.
6. Report of the 16<sup>th</sup> and 17<sup>th</sup> Human Resource and Administration Committee Meetings held on 25<sup>th</sup> May 2012 and 12<sup>th</sup> June 2012.



**Resolution:** The Board considered and approved the Committee recommendation to visit the site during the third week of July 2012.

**(e) Creation of new forests**

The proposal for creation of new forests was tabled for consideration by the Board. The Board was informed that the proposal targets to gazette an additional 240,000 hectares of forest areas as state forests. During discussions, Management was tasked to follow up with the County Council on gazette of Loima Hills.

**Resolution:** The Board considered and approved the recommendation by the Committee to gazette an additional 240,000 hectares of forest areas as state forests.

**(f) Regularization of Mautuma Central Settlement Scheme**

The request for regularization of the Mautuma Central Settlement Scheme was tabled for consideration by the Board. The Board was informed that the Ministry of Lands requested to de-gazette 1,578 hectares of Lugari forest comprising of Mautuma Settlement Scheme to regularize the settlement and facilitate issuance of title deeds to the beneficiaries. The FCC had recommended the de-gazette.

**Resolution:** The Board considered and approved the recommendation by the Committee to grant the request by the Ministry of Lands to de-gazette 1,578 hectares of Lugari Forest Station comprising the Mautuma Settlement Scheme.

**(g) Request by NEMA for allocation of forest land for construction of a regional office in Nyeri**

The Committee Chairperson tabled the request by NEMA for allocation of 0.4 hectares of forest land for construction of a regional office in Nyeri. The Board was further informed that the area is already set aside at Muringato forest station.

**Resolution:** The Board considered and approved the recommendation by the Committee to grant the request by NEMA for allocation of forest land for construction of a regional office in Nyeri, subject to payment of the prevailing rates on forest use licenses.

**(h) KFS Board Performance Contract 2012-2013**

The Chairman of the Committee presented the draft Performance Contract for the 2012/2013 financial year for consideration.

**Resolution:** The Board considered and approved the recommendation by the Committee to approve and adopt the KFS Board Performance Contract for the year 2012-2013.

**(i) Contribution of mountain forests and related ecosystems to the Kenyan economy**

The report on the contribution of mountain forests and related ecosystems to the Kenyan economy was tabled before the Board for consideration.

**Resolution:** The Board considered and approved the recommendation by the Committee to adopt the report.

**(j) Draft Subsidiary Legislation on use of property marks and declaration of provisional forests**

The draft Subsidiary Rules on Use of Property Marks and Declaration of Provisional Forests was tabled before the Board for consideration. The Board was informed that the draft rules were subjected to three regional stakeholders' workshops covering all the conservancies and a national validation workshop. The Board was further informed that the inputs from the national stakeholder's workshop had already been captured in the final draft.

I Certify that this is a true Extract of  
the Minutes of the Board  
Sign: *[Signature]* Date: 7/11/12  
CORPORATION SECRETARY  
KENYA FOREST SERVICE

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There being no other business, the Chairman adjourned the meeting at 3.56 p.m.

Approved for circulation

*R. Mwangi*

17/07/2012

Chairman

Date

Confirmed

*R. Mwangi*

01/10/2012

Chairman

Date

*M. Mwangi*

1/10/12

Secretary

Date

I Certify that this is a true Extract of  
the Minutes of the Board  
Sign: *R. Mwangi* Date: 7/11/12  
CORPORATION SECRETARY  
KENYA FOREST SERVICE



Registration No: 0011598

For official use

nema

mazingira yetu | uba | wazi | wajibu wetu

NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY (NEMA)

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT  
ENVIRONMENTAL IMPACT ASSESSMENT LICENSE

This is to certify that the Project Report/Environmental Impact Assessment Study Report received from  
District Land Adjudication and Settlement Officer (Name of individual/firm) of P. O. Box 679, Kakamega (Address submitted to the National Management Environment Authority (NEMA) in accordance with the Environmental Impact Assessment and Audit Regulations regarding Proposed Mautuma Settlement Scheme (title of project) whose objective is to carry o Establishment of 1,577.86Ha as Mautuma Central Settlement Scheme under the Mautuma Forest Reserve (briefly describe purpose) located at Mautuma Forest Reserve, Lugari District (locality and district) has been reviewed and a licence is hereby issued for implementation of the project, subject to attached conditions.

Dated this 11th Day of October 2012

Signature [Handwritten Signature] (SEAL)

Director General  
The National Environment Management Authority

CONDITIONS OF LICENSE

- 1. This licence is valid for a period of 24 MONTHS (time within which the project should commence) from the date hereof.
- 2. The Director-General shall be notified of any transfer/variation/surrender of this licence.

P.T.O.



## **1.0 General Conditions**

- 1.1 This project is for the proposed establishment of 1577.86 Ha. as Mautuma Central Settlement Scheme under the Mautuma Forest Reserve Lugari
- 1.2 The license shall be valid for 24 months from the date of issue.
- 1.3 The proponent shall provide the final project accounts (final project costs) on completion of construction phase. This should be done prior to project commissioning/operation/occupation.
- 1.4 Without prejudice to the other conditions of this license, the proponent shall implement and maintain an environmental management system, organizational structure and allocate resources that are sufficient to achieve compliance with the requirements and conditions of this license.
- 1.5 The Authority shall take appropriate action against the proponent in the event of breach of any of the conditions stated herein or any contravention to the Environmental Management and Coordination Act, 1999 and regulations therein.
- 1.6 This license shall not be taken as statutory defence against charges of environmental degradation or pollution in respect of any manner of degradation/pollution not specified herein.
- 1.7 The proponent shall ensure that records on conditions of licenses/approval and project monitoring and evaluation shall be kept on the project site for inspection by NEMA's Environmental Inspectors.
- 1.8 The proponent shall submit an Environmental Audit report in the first year of occupation/operations/commissioning to confirm the efficacy and adequacy of the Environmental Management Plan.
- 1.9 The proponent shall comply with NEMA's improvement orders throughout the project cycle.

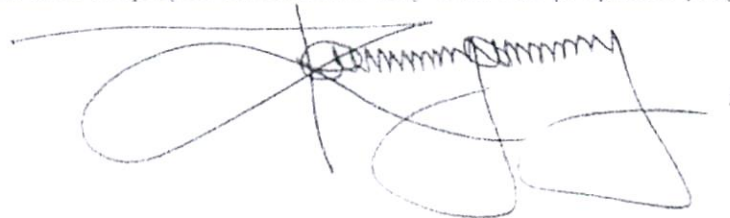
## **2.0 Construction Conditions**

- 2.1 The proponent shall ensure that de-gazetteement and excision of forest for purpose of establishing the settlement scheme are done as per the provision of Forest Act, Water Act, and all other relevant legal provision.
- 2.2 The proponent shall put up a project signboard as per the ministry of Works Standards indicating the NEMA license number among other information.
- 2.3 The proponent shall ensure that all excavated material and debris is collected, re-used and where need be, disposed off as per the Environmental Management and Coordination (Waste Management) Regulations of 2006.
- 2.4 The proponent shall ensure strict adherence to the provisions of Environmental Management and Coordination (Noise and Excessive Vibrations Pollution Control) Regulations of 2009.
- 2.5 The proponent shall ensure strict adherence to the Occupational Safety and Health Act (OSHA), 2007.

- 2.6 The proponent shall ensure that construction workers are provided with adequate personal protection equipment (PPE), sanitary facilities as well as adequate training.
- 2.7 The proponent shall ensure that construction activities are undertaken during the day (and not at night) between 08.00 hrs and 17.00 hrs; and that transportation of construction material to site are undertaken during weekdays (and not weekends) off peak hours.
- 2.8 The proponent shall ensure strict adherence to the Environmental Management Plan developed throughout the project cycle.
- 2.9 The proponent shall ensure that the development adheres to zoning specifications issued for development of such a project within the jurisdiction of the County Council of Lugari, with emphasis on approved land use for the area.
- 2.10 The proponent shall ensure that the adjudication of the plots for the beneficiaries, institutions and public utilities does not occupy ecologically sensitive areas and a rocky hills.

### **3.0 Operational Conditions**

- 3.1 The proponent and other lead agencies shall ensure that farm forestry is practised to enhance environmental conservation.
- 3.2 The proponent shall ensure that sound land use practices are put in place to ensure environmentally sustainability.
- 3.3 The proponent shall ensure that rain water harvesting facilities are provided to supplement surface and ground water.
- 3.4 The proponent shall ensure that all drainage facilities on the road are fitted with adequate functional silt traps.
- 3.5 The proponent shall ensure that appropriate and functional efficient air pollution control mechanisms are installed in the facility to control all air emissions.
- 3.6 The proponent shall ensure that all equipment used are well maintained in accordance with the Environmental Management and Coordination (Noise and Excessive Vibration Pollution Control) Regulations of 2009.
- 3.7 The proponent shall ensure that all solid waste is handled in accordance with the Environmental Management and Coordination (Waste Management) Regulations of 2006.
- 3.8 The proponent shall ensure that all workers are well protected and trained as per the Occupational Safety and Health Act (OSHA) of 2007.
- 3.9 The proponent shall comply with the relevant principal laws, by-laws and guidelines issued for development of such a project within the jurisdiction of the Ministry of Lands, Kenya Forest Service, Ministry of Water and Irrigation, Ministry of Roads, Kenya Wildlife Services, Directorate of Health and Safety Services, Ministry of Public health and Sanitation, County Council of Lugari, Provincial Administration and other relevant Authorities.
- 3.9 The proponent shall ensure that environmental protection facilities or measures to prevent pollution and ecological deterioration such as re-afforestation, sound agricultural practices, water harvesting systems, tree planting are designed, constructed and employed simultaneously with the proposed project.

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4.0 **Notification Conditions**

- 4.1 The proponent shall seek written approval from the Authority for any operational changes under this license.
- 4.2 The proponent shall ensure that the Authority is notified of any malfunction of any system within 12 hours on the NEMA hotline No. **020 6006041** and mitigation measures put in place.
- 4.3 The proponent shall keep records of all pollution incidences and notify the Authority within 24 hours.
- 4.4 The proponent shall notify the Authority in writing of its intent to decommission the facility **three (3) months** in advance.

5.0 **Decommissioning Conditions**

- 5.1 The proponent shall ensure that a decommissioning plan is submitted to the Authority for approval at least three (3) months prior to decommissioning.
- 5.2 The proponent shall ensure that all pollutants and polluted material is contained and adequate mitigation measures provided during the phase.

The above conditions will ensure environmentally sustainable development and must be complied with.

