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THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – THIRD SESSION – 2019

DEPARTMENTAL COMMITTEE ON LANDS

REPORT ON THE CONSIDERATION OF A PETITION BY RESIDENTS OF
KURESOI NORTH CONSTITUENCY REGARDING ALLOCATION OF LAND
TO THE KURESOI DIVISIONAL HEADQUARTERS

DIRECTORATE OF COMMITTEE SERVICES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI


 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 21 NOV 2019	DAY: THURSDAY
TABLED BY: CLERK AT THE TABLE:	<i>Hon. Rachael Nyamai</i> <i>Chair, Lands Committee</i> <i>Lemuro Mosey</i> NOVEMBER 2019

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CHAIRPERSON'S FOREWORD

The Petition by residents of Kuresoi North Constituency regarding allocation of land to the Kuresoi Divisional Headquarters was presented to the House by Hon. Moses Cheboi CBS, MP on behalf of the petitioners on 8th August 2019.

In considering the Petition, the Committee held a meeting with the Hon. Moses Cheboi CBS, MP on behalf of the petitioners and the Principal Secretary Ministry of Environment and Forestry on 12th November 2019. The Committee also received written submissions for the Cabinet Secretary Ministry of Lands and Physical Planning.

on 18th July 2019 The Committee is thankful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee is also thankful to the Petitioner, Hon. Moses Cheboi CBS, MP the Principal Secretary Ministry of Environment and Forestry and the Cabinet Secretary Ministry of Lands and Physical Planning for the submissions he made to the Committee.

On behalf of the Committee, and pursuant to Standing Order, 227 it is my pleasant duty to table the Report of the Departmental Committee on Lands on its consideration of the Petition by residents of Kuresoi North Constituency regarding allocation of land to the Kuresoi Divisional Headquarters.

Hon. Dr. Rachael Kaki Nyamai, MP
Chairperson, Departmental Committee on Lands

EXECUTIVE SUMMARY

The purpose of this report is to respond to prayers made by in a Petition by residents of Kuresoi North Constituency regarding allocation of land to the Kuresoi Divisional Headquarters. Petitioners' prayers are that the National Assembly through the relevant Departmental Committee;

- i. Pursuant to Standing Order 216 (5) (a) does investigate and inquire into all matters raised in the petition; and
- ii. Pursuant to section 34 of the Forest Conservation and Management Act, 2016, the relevant Cabinet Secretary initiates the process of degazettement and excising of 15 acres from Kuresoi Forest, LR. No. Sitoton Compartment 7 Block to be allocated to Kuresoi Divisional Headquarters

The Committee observed that the land in question is currently occupied by temporary office structures that include the National Administration Offices, County Administration Offices, Chief's office, Kenya Forest Office substation, Ministry of Agriculture office, a fully operational police station and the Ministry of Education Offices.

In light of the foregoing, the Committee noted that the proposed degazettement is meant to facilitate the delivery of government services to the residents of Kuresoi North Constituency.

The Committee also noted that although the Principal Secretary stated that the Ministry of Interior and Coordination of National Government, being a key beneficiary of the proposed excision of land for the Kuresoi Divisional Headquarters, should initiate the degazettement process, the petitioner's prayer is that the relevant Cabinet Secretary being the Cabinet Secretary, Ministry of Environment and Forestry does initiate the process of degazettement of the said land from the Kuresoi Forest. Further, the Committee noted that the responsible Cabinet Secretary for matters relating to degazettement of forests is the Cabinet Secretary, Ministry of Environment and Forestry.

The Committee recommended that pursuant to section 34 of the Forest Conservation and Management Act, 2016, the Cabinet Secretary, Ministry of Environment and Forestry initiates the process of the degazettement and excising of 15 acres from Kuresoi Forest, LR. No. Sitoton Compartment 7 Block to be allocated to Kuresoi Divisional Headquarters within ninety days after the tabling of this report in the House.

Finally, the Petitioners are also at liberty to initiate the degazettement process as provided for in Section 34 of the Forest Conservation and Management Act, 2016.

1.0 PREFACE

1.1 Mandate of the Committee

2. The Departmental Committee on Lands is established pursuant to the provisions of Standing Order No. 216 (1) and (5) with the following terms of reference: -
 - (i) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
 - (ii) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
 - (iii) study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
 - (iv) study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
 - (v) 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.
 - (vi) study and review all legislation referred to it.

1.2 Committee subjects

3. The Committee is mandated to consider the following subjects:
 - a) Lands
 - b) Settlement

1.3 Oversight

4. The Committee oversees the Ministry of Lands and Physical Planning; and the National Land Commission.

1.4 Committee Membership

5. The Committee membership comprises: -

Hon. Dr. Rachael Nyamai, MP – **Chairperson**

MP for Kitui South Constituency

Jubilee Party

Hon. Khatib Mwashetani, MP – **V/Chairperson**

MP for Lunga Lunga Constituency

Jubilee Party

Hon. Jayne Wanjiru Kihara, MP

Member for Naivasha
Constituency

Jubilee Party

Hon Joshua Kutuny Serem, MP

Member for Cherangany
Constituency

Jubilee Party

Hon. Kimani Ngunjiri, MP

Member for Bahati Constituency

Jubilee Party

Hon. Mishi Mboko, MP

Member for Likoni Constituency

**Orange Democratic Movement
(ODM)**

Hon. Omar Mwinyi, MP

Member for Changamwe
Constituency

**Orange Democratic Movement
(ODM)**

Hon. Ali Mbogo, MP

Member for Kisauni
Constituency

**Wiper Democratic Movement
(WDM)**

Hon. Babu Owino, MP

Member for Embakasi East
Constituency

**Orange Democratic Movement
(ODM)**

Hon. Caleb Kipkemei Kositany,
MP

Member for Soy Constituency

Jubilee Party

Hon. Catherine Waruguru, MP

Member for Laikipia County

Jubilee Party

Hon George Aladwa, MP

Member for Makadara
Constituency

**Orange Democratic Movement
(ODM)**

Hon George Risa Sunkuyia, MP

Member for Kajiado West
Constituency

Jubilee Party

Hon. Jane Wanjuki Njiru, MP

Member for Embu County

Jubilee Party

Hon. Josphat Gichunge
Kabeabea, MP

Member for Tigania East
Constituency

Party of National Unity (PNU)

Hon. Owen Yaa Baya, MP

Member for Kilifi North
Constituency

**Orange Democratic Movement
(ODM)**

Hon. Samuel Kinuthia Gachobe,
MP

Member for Subukia
Constituency

Jubilee Party

Hon. Simon Nganga Kingara, MP

Member for Ruiru Constituency

Jubilee Party

Hon. Teddy Mwambire, MP

Member for Ganze Constituency

**Orange Democratic Movement
(ODM)**

1.5 Committee Secretariat

6. The Committee secretariat comprises: -

Lead Clerk

Mr. Leonard Machira

Clerk Assistant I

Mr. Ahmad Guliye

Clerk Assistant III

Mr. Adan Abdi

Fiscal Analyst III

Mr. Joseph Tiyan

Researcher III

Ms. Winnie Kizia

Media Relations Officer III

Ms. Jemimah Waigwa

Legal Counsel I

Mr. Nimrod Ochieng

Audio Officer

Mr. Brian Wechabe

Legal Assistant

Ms. Peris Kaburi

Serjeant-At-Arms

2.0 INTRODUCTION

7. The Petition by residents of Kuresoi North Constituency regarding allocation of land to the Kuresoi Divisional Headquarters was presented to the House by Hon. Moses Cheboi CBS, MP on behalf of the petitioners on 8th August 2019.
8. The Petitioner wished to draw the attention of the House to the following, that:
 - i. In the period 1992 – 1993 due to the persistent insecurity experienced in the larger Kuresoi, the then Head of State intervened by ordering the deployment of security officers to help restore calm in the area and established a divisional headquarters known as Kuresoi;
 - ii. In 1997 , following a request by the residents of Kuresoi to avail more security officers to the area to enhance security, the then District Commissioner Nakuru District , deployed police officers and settled them at Kuresoi Health Centre since there were no established structures and houses or an established police station;
 - iii. In 1998, Kuresoi Heath Centre was opened therefore necessitating the need to have the police offices relocated and housed at a suitable place. Due to unavailability of land to construct a police station and other government offices, the District Commissioner directed the establishment of a police station on land belonging to the Kenya Forest Service ie Kuresoi Forst. well-wishers including saw- millers offered to provide materials to construct semi – permanent houses for the officers;
 - iv. Further following the need to bring government services closer to the residents of Kuresoi, the government established other offices including; Provincial Administration offices (National Administration Offices) County Administration Offices, Chief's office, Kenya Forest Office substation, Ministry of Agriculture office, a fully operational police station and the ministry of Education Office through the Kenya National reexamination Council office. This therefore necessitated the area hosting the said offices being declared as the Divisional Headquarters; though the land ids public but belongs to the Kenya Forest Service, under the Ministry of Environment and Forestry;
 - v. The land in question is now hosting various national government and county offices;
 - vi. The degazettement of the land in question comprising 10 acres will be for purposes of hosting national administration offices, a police station, county offices, Education offices and other government offices;

- vii. The degazettement does not involve any clearance of the forest as the land in question is already occupied by the various government offices and is situated in Kuresoi Centre.
 - viii. Efforts to have the land in question excised and degazetted from the Kenya Forest Service by the community and the then Provincial Administration have been futile;
 - ix. The issues in respect of which the petition is made are not pending before any court of law or other constitutional or legal body
9. Therefore, the petitioners pray that the National Assembly through the relevant Departmental Committee;
- i. Pursuant to Standing Order 216 (5) (a) does investigate and inquire into all matters raised in the petition; and
 - ii. Pursuant to section 34 of the Forest Conservation and Management Act, 2016, the relevant Cabinet Secretary initiates the process of degazettement and excising of 15 acres from Kuresoi Forest, LR. No. Sitoton Compartment 7 Block to be allocated to Kuresoi Divisional Headquarters

3.0 SUBMISSIONS

3.1 Submissions by Hon. Moses Cheboi CBS, MP

10. The Committee held a meeting with the Hon. Moses Cheboi CBS MP on behalf of the petitioners on 12th November 2019. During the meeting he informed that in the period 1992 – 1993, The Head of State directed that a divisional headquarters be established, and police officers be deployed to Kuresoi Centre to contain the persistent insecurity experienced in the area. Following the directive, the District Commissioner, Nakuru District, deployed police officers to the area and settled them at Kuresoi Health Centre since there were no established structures and houses or an established police station.
11. Kuresoi Health Centre started providing services in 1998, necessitating the need to have the police offices relocate to alternative accommodation. Due to unavailability of land to construct a police station and other government offices, the District Commissioner directed the establishment of a police station on land belonging to the Kenya Forest Service at Kuresoi Centre.
12. Subsequently other government offices were established at the centre leading to its development as the Divisional Headquarters. The Divisional Headquarters comprise 19 acres but the offices occupy 15 acres. The offices include the Provincial Administration offices (National Administration Offices) County Administration Offices, Chief's office, Kenya Forest Office substation, Ministry of Agriculture office, a fully operational police station and the Ministry of Education Office.
13. However, the government offices were built using timber and other temporary materials as permanent structures could not be erected on forest land. Effort by the area leadership to facilitate the construction of permanent structure had been futile given that the land was still classified as state forest. Further attempts by the then Provincial Administration to have the matter addressed have also been futile.
14. He also informed the Committee that there was no available land within the vicinity of Kuresoi Centre which would be purchased to establish the Divisional headquarters if the land where the offices are located is not degazetted. He added that alternative land available for purchase was located 10 km away and in an area that is sparsely populated. Hence the relocation of the Divisional Headquarters would affect the delivery of both national and county government services to the residents of Kuresoi Centre.

3.2 Submissions by the Principal Secretary Ministry of Environment and Forestry

15. The Committee held a meeting with the Principal Secretary Ministry of Environment and Forestry on 12th November 2019. During the meeting the Principal Secretary informed the Committee that:
16. Background: Kuresoi Forest is part of the Western Mau Forest that was gazetted as a Forest Reserve as per Legal Proclamation No. 44 of 1932 and was declared a Central Forest vide Legal Notice No. 174 of 1964. Kuresoi Forest Station has two blocks, Sitotoni Forest Block and Kuresoi Forest Block. It covers an area of approximately 7366.8 Ha.
17. The forest land is vested in the National Government which holds it in trust for the people of Kenya and it is administered by The National Land Commission. The gazettelement and excision of any part of the forest land can only be realized as per the provisions of section 34 of the Forest Conservation and Management Act 2016 that confers powers to the National Assembly to vary the boundaries and or revocation of a public forest.
18. She further stated that the Ministry of Interior and Coordination of National Government, being a key beneficiary of the proposed excision of land for the Kuresoi Divisional Headquarters should initiate the gazettelement process. She added that the Ministry of Environment and Forestry was not the appropriate body to initiate the degazettelement process as doing so would present a conflict of interest given that the Ministry was the custodian of government forests.
19. The Principal Secretary also noted that the petition had not been forwarded to the Ministry of Environment and Forestry for consideration and or recommendation.
20. The Principal Secretary recommended that National Assembly directs that the petition be forwarded to the Ministry of Environment and Forestry for consideration and recommendation pursuant to 34 of the Forest Conservation and Management Act, 2016.


4.0 OBSERVATIONS

The Committee made the following observations:

1. The land in question is currently occupied by temporary office structures that include the National Administration Offices, County Administration Offices, Chief 's office, Kenya Forest Office substation, Ministry of Agriculture office, a fully operational police station and the Ministry of Education Offices.
2. In light of the foregoing, the Committee noted that the proposed degazettement is meant to facilitate the delivery of government services to the residents of Kuresoi North Constituency.
3. The Committee also noted that although the Principal Secretary stated that the Ministry of Interior and Coordination of National Government, being a key beneficiary of the proposed excision of land for the Kuresoi Divisional Headquarters, should initiate the degazettement process, the petitioner's prayer is that the relevant Cabinet Secretary being the Cabinet Secretary, Ministry of Environment and Forestry does initiate the process of degazettement of the said land from the Kuresoi Forest. Further, the Committee noted that the responsible Cabinet Secretary for matters relating to degazettement of forests is the Cabinet Secretary, Ministry of Environment and Forestry.

5.0 COMMITTEE RECOMMENDATIONS

1. The Committee recommends that pursuant to section 34 of the Forest Conservation and Management Act, 2016, the Cabinet Secretary, Ministry of Environment and Forestry initiates the process of the degazettement and excising of 15 acres from Kuresoi Forest, LR. No. Sitoton Compartment 7 Block to be allocated to Kuresoi Divisional Headquarters within ninety days of tabling of this report.
2. The Petitioners are also at liberty to initiate the degazettement process as provided for in Section 34 of the Forest Conservation and Management Act, 2016.

Signed..........Date.....19-11-2019.....

Hon. Dr. Rachael Kaki Nyamai, MP
Chairperson, Departmental Committee on Lands

**MINUTES OF THE 87TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
LANDS HELD ON FRIDAY, 15TH NOVEMBER, 2019 AT ENGLISHPOINT – MARINA,
MOMBASA AT 2.30 PM**

PRESENT

1. Hon. Dr. Rachael Nyamai, M.P - **Chairperson**
2. Hon. Jayne Kihara, M.P
3. Hon. Omar Mwinyi Shimbwa, M.P
4. Hon. Mishi Mboko, M.P
5. Hon. Kimani Ngunjiri, M.P
6. Hon. Ali Mbogo, M.P
7. Hon. Caleb Kositany, M.P
8. Hon. Owen Baya, M.P
9. Hon. Samuel Kinuthia Gachobe, M.P
10. Hon. Teddy Mwambire, M.P

APOLOGIES

1. Hon. Khatib Mwashetani, MP - **Vice Chairperson**
2. Hon. Joshua Kutuny, M.P
3. Hon. Babu Owino, M.P
4. Hon. Catherine Waruguru, M.P
5. Hon. George Aladwa, M.P
6. Hon. George Risa Sunkuyia, M.P
7. Hon. Josphat Gichunge Kabeabea, M.P
8. Hon. Jane Wanjuki Njiru, M.P
9. Hon. Simon Nganga Kingara, M.P

IN ATTENDANCE

THE NATIONAL ASSEMBLY SECRETARIAT

1. Ms. Florence Abonyo - Director, Committee Services
2. Mr. Leonard Machira - Clerk Assistant I
3. Mr. Ahmad Guliye - Clerk Assistant III
4. Mr. Ronald Walala - Legal Counsel
5. Mr. Joseph Tiyan - Research Officer
6. Mr. Nimrod Ochieng - Audio Recording Officer
7. Ms. Peris Kaburi - Serjeant At Arms

MIN. NO. NA/DCS/LANDS/2019/333: PRELIMINARIES

The meeting was called to order at fifteen minutes to three o'clock and prayers were said.

MIN. NO. NA/DCS/LANDS/2019/334: CONSIDERATION OF THE DRAFT REPORT ON THE PETITION REGARDING ALLOCATION OF LAND TO THE KURESOI DIVISIONAL HEADQUARTERS, KURESOI NORTH CONSTITUENCY, NAKURU COUNTY

The Committee considered the draft report on the Petition regarding allocation of land to the Kuresoi Divisional Headquarters, Kuresoi North Constituency, Nakuru County and adopted it with the following observations and recommendations after it was proposed and seconded by Hon. Omar Mwinyi, MP, MP and Hon. Mishi Mboko, MP respectively;

a. Observations

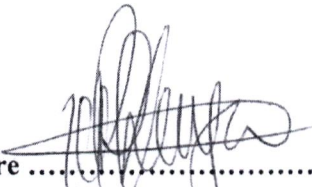
- i. The land in question is currently occupied by temporary office structures that include the National Administration Offices, County Administration Offices, Chief 's office, Kenya Forest Office substation, Ministry of Agriculture office, a fully operational police station and the Ministry of Education Offices.
- ii. In light of the foregoing, the Committee noted that the proposed degazettement is meant to facilitate the delivery of government services to the residents of Kuresoi North Constituency.
- iii. The Committee also noted that although the Principal Secretary stated that the Ministry of Interior and Coordination of National Government, being a key beneficiary of the proposed excision of land for the Kuresoi Divisional Headquarters, should initiate the degazettement process, the petitioner's prayer is that the relevant Cabinet Secretary being the Cabinet Secretary, Ministry of Environment and Forestry does initiate the process of degazettement of the said land from the Kuresoi Forest. Further, the Committee noted that the responsible Cabinet Secretary for matters relating to degazettement of forests is the Cabinet Secretary, Ministry of Environment and Forestry.

b. Recommendations

- i. The Committee recommended that pursuant to section 34 of the Forest Conservation and Management Act, 2016, the Cabinet Secretary, Ministry of Environment and Forestry initiates the process of the degazettement and excising of 15 acres from Kuresoi Forest, L.R. No. Sitoton Compartment 7 Block to be allocated to Kuresoi Divisional Headquarters within ninety days after the tabling of this report in the House.
- ii. The Petitioners are also at liberty to initiate the degazettement process as provided for in Section 34 of the Forest Conservation and Management Act, 2016.

MIN. NO. NA/DCS/LANDS/2019/335: ADJOURNMENT

The meeting was adjourned at fifteen minutes to five o'clock.


Signature

HON. DR. RACHAEL KAKI NYAMAI, M.P.

(Chairperson)

Date..... 19-11-2019

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MINUTES OF THE 83RD SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS HELD ON TUESDAY, 12TH NOVEMBER, 2019 IN THE BOARDROOM, 9TH FLOOR, HARAMBEE SACCO PLAZA CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 11.30 A.M

PRESENT

1. Hon. Dr. Rachael Nyamai, M.P - **Chairperson**
2. Hon. Joshua Kutuny, M.P
3. Hon. Omar Mwinyi Shimbwa, M.P
4. Hon. Ali Mbogo, M.P
5. Hon. Babu Owino, M.P
6. Hon. Caleb Kositany, M.P
7. Hon. Catherine Waruguru, M.P
8. Hon. George Aladwa, M.P
9. Hon. George Risa Sunkuyia, M.P
10. Hon. Jane Wanjuki Njiru, M.P
11. Hon. Owen Baya, M.P
12. Hon. Simon Nganga Kingara, M.P

APOLOGIES

1. Hon. Khatib Mwashetani, M.P - **Vice Chairperson**
2. Hon. Jayne Kihara, M.P
3. Hon. Mishi Mboko, M.P
4. Hon. Kimani Ngunjiri, M.P
5. Hon. Josphat Gichunge Kabeabea, M.P
6. Hon. Samuel Kinuthia Gachobe, M.P
7. Hon. Teddy Mwambire, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY

Hon. Moses Cheboi, MP

MINISTRY OF ENVIRONMENT & FORESTRY

1. Ms. Betty Maina - Principal Secretary
2. Mr. Rodney Omari - Assistant Secretary/Parliamentary Liaison
3. Mr. Julius Kamau - Chief Conservator of Forest
4. Ms. Laura Yego - Kenya Forest Service

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| 5. Mr. Evans Kegode | - | Kenya Forest Service |
| 6. Mr. Edward Munene | - | Kenya Forest Service |

THE NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|------------------------|---|-------------------------|
| 1. Mr. Leonard Machira | - | Clerk Assistant I |
| 2. Mr. Ahmad Guliye | - | Clerk Assistant III |
| 3. Ms. Jemimah Waigwa | - | Legal Counsel |
| 4. Mr. Nimrod Ochieng | - | Audio Recording Officer |

MIN. NO. NA/DCS/LANDS/2019/318: PRELIMINARIES

The meeting was called to order at twelve minutes to twelve o'clock. Prayers were said and thereafter introductions were made.

MIN. NO. NA/DCS/LANDS/2019/319: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted as outlined in the notice of the meeting after it was proposed and seconded by Hon. Ali Mbogo, M.P and Hon. Caleb Kositany, M.P respectively.

MIN. NO. NA/DCS/LANDS/2019/320: SUBMISSIONS BY HON. MOSES CHEBOI, CBS, MP ON THE PETITION REGARDING ALLOCATION OF LAND TO THE KURESOI DIVISIONAL HEADQUARTERS, KURESOI NORTH CONSTITUENCY, NAKURU COUNTY

The Principal Secretary, Ministry of Environment and Forestry submitted the following before the Committee in response to the above petition;

1. meeting he informed that in the period 1992 – 1993, The Head of State directed that a divisional headquarters be established, and police officers be deployed to Kuresoi Centre to contain the persistent insecurity experienced in the area. Following the directive, the District Commissioner, Nakuru District, deployed police officers to the area and settled them at Kuresoi Health Centre since there were no established structures and houses or an established police station.
2. Kuresoi Heath Centre started providing services in 1998, necessitating the need to have the police offices relocate to alternative accommodation. Due to unavailability of land to construct a police station and other government offices, the District Commissioner directed the establishment of a police station on land belonging to the Kenya Forest Service at Kuresoi Centre.
3. Subsequently other government offices were established at the centre which leading to its development as the Divisional Headquarters. The Divisional Headquarters comprise

19 acres but the offices occupied 15 acres. The offices include the Provincial Administration offices (National Administration Offices) County Administration Offices, Chief's office, Kenya Forest Office substation, Ministry of Agriculture office, a fully operational police station and the Ministry of Education Office.

4. However, the government offices were built using timber and other temporary materials as permanent structures could not be erected on forest land. Effort by the area leadership to facilitate the construction of permanent structure had been futile given that the land was still classified as state forest. Further attempts by the then Provincial Administration to have the matter addressed have also been futile.
5. He also informed the Committee that there was no available land within the vicinity of Kuresoi Centre which would be purchased to establish the Divisional headquarters if the land where the offices are located is not degazetted. He added that alternative land available for purchase was located 10 km away and in an area that is sparsely populated. Hence the relocation of the Divisional Headquarters would affect the delivery of both national and county government services to the residents of Kuresoi Centre.

MIN. NO. NA/DCS/LANDS/2019/321: SUBMISSIONS BY THE PRINCIPAL SECRETARY, MINISTRY OF ENVIRONMENT AND FORESTRY ON THE PETITION REGARDING ALLOCATION OF LAND TO THE KURESOI DIVISIONAL HEADQUARTERS, KURESOI NORTH CONSTITUENCY, NAKURU COUNTY

The Principal Secretary informed the Committee that:

- i. The Kuresoi Forest is part of the Western Mau Forest that was gazetted as a Forest Reserve as per Legal Proclamation No. 44 of 1932 and was declared a Central Forest vide Legal Notice No. 174 of 1964. Kuresoi Forest Station has two blocks, Sitotoni Forest Block and Kuresoi Forest Block. It covers an area of approximately 7366.8 Ha.;
- ii. The forest land is vested in the National Government which holds it in trust for the people of Kenya and it is administered by The National Land Commission. The gazettelement and excision of any part of the forest land can only be realized as per the provisions of section 34 of the Forest Conservation and Management Act 2016 that confers powers to the National Assembly to vary the boundaries and or revocation of a public forest.;

- iii. She further stated that the Ministry of Interior and Coordination of National Government, being a key beneficiary of the proposed excision of land for the Kuresoi Divisional Headquarters should initiate the gazette process. She added that the Ministry of Environment and Forestry was not the appropriate body to initiate the degazette process as doing so would present a conflict of interest given that the Ministry was the custodian of government forests;
- iv. The Principal Secretary also noted that the petition had not been forwarded to the Ministry of Environment and Forestry for consideration and or recommendation;
- v. The Principal Secretary recommended that National Assembly directs that the petition be forwarded to the Ministry of Environment and Forestry for consideration and recommendation pursuant to 34 of the Forest Conservation and Management Act, 2016.

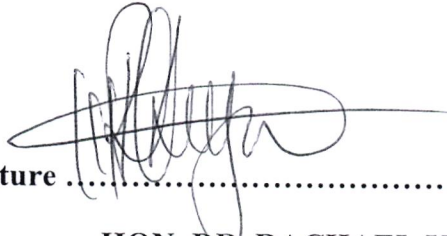
The Committee observed that although the Principal Secretary stated that the Ministry of Interior and Coordination of National Government, being a key beneficiary of the proposed excision of land for the Kuresoi Divisional Headquarters, should initiate the degazette process, the petitioner's prayer is that the relevant Cabinet Secretary being the Cabinet Secretary, Ministry of Environment and Forestry does initiate the process of degazette of the said land from the Kuresoi Forest. Further, the Committee noted that the responsible Cabinet Secretary for matters relating to degazette of forests is the Cabinet Secretary, Ministry of Environment and Forestry.

MIN. NO. NA/DCS/LANDS/2019/322: ANY OTHER BUSINESS (AOB)

- i. The Committee reminded the Principal Secretary to ensure that the Ministry of Environment and Forestry to submit a fresh Environmental Impact Assessment (EIA) Report on the Chepyuik settlement in Mount Elgon as the Ministry had previously submitted an expired Environmental Impact Assessment report.
- ii. The Committee resolved to invite the Cabinet Secretary, Ministry of Lands & Physical Planning, the Company Secretary, Kenya Commercial Bank and the Chief Executive Officer, Uchumi Limited to meeting on Tuesday, 19th November, 2019 in respect of the petition by former workers of the late Mayor Jacob Samuels regarding invasion and eviction from their land in Roysambu Constituency by the Kenya Defence Forces as new information emerged that several parties lay claimed ownership of the land in question.

MIN. NO. NA/DCS/LANDS/2019/323: ADJOURNMENT

There being no other business to discuss, the meeting was adjourned at twenty-two minutes past one o'clock.



Signature

HON. DR. RACHAEL KAKI NYAMAI, M.P.

(Chairperson)

Date.....19-11-2019.....

PETITION TO THE NATIONAL ASSEMBLY ON ALLOCATION OF
LAND TO THE KURESOI DIVISIONAL HEADQUARTERS, KURESOI
NORTH CONSTITUENCY, NAKURU COUNTY

Hon. Sp
Gen M
appal
19/10/19

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I the undersigned, on behalf of the residents of Kuresoi North Constituency, Nakuru County, draw the attention of the House to the following -

1. THAT in the period 1992 -1993, due to the persistent insecurity experienced in the larger Kuresoi, the then Head of State intervened by ordering the deploying of security officers to help restore calm in the area and establishment of a divisional headquarters known as Kuresoi;
2. THAT in 1997, following a request by the residents of Kuresoi to avail the more security officers for security purposes, the then District Commissioner, Nakuru District, deployed police officers and settled them at Kuresoi Health Centre since there was no established structures in form of houses or an established police station;
3. THAT in 1998, Kuresoi Health Centre was opened therefore necessitating the need to have the officers relocated and housed at suitable place. Due to unavailability of land to construct a police station and other government offices, the then District Commissioner directed establishment of a police station on land belonging to Kenya Forest Service i.e. Kuresoi Forest. Well-wishers including saw-millers offered to provide building materials to construct semi- permanent houses for the officers;
4. THAT, further, following the need to bring government services closer to the residents of Kuresoi, the government established other offices including; Provincial Administrative offices now county administrative offices, District Officer offices, Chiefs' office, Kenya Forest Office substation, Ministry of Agriculture office, a fully operational police station, and the Ministry of Education through the Kenya National Examination Council (KNEC) office. This therefore necessitated the area or location hosting the said offices being declared as the Divisional Headquarters; though the land is public but belongs to the Kenya Forest Service, under the Ministry of Environment and natural Resources;
5. THAT, efforts to have the piece of land excised and de-gazetted from the Kenya Forest Services by the community and Provincial Administration has not been successful;

Approved.
RNT
SNA
11/9/19



PETITION TO THE NATIONAL ASSEMBLY ON ALLOCATION OF
LAND TO THE KURESOI DIVISIONAL HEADQUARTERS, KURESOI
NORTH CONSTITUENCY, NAKURU COUNTY

6. THAT, the land in question is now hosting various Government and county offices:
7. THAT, the petition by the Kuresoi residents is to have the land in question which is 10 acres be degazetted and issued in favour of the office of the President who will host provincial administration offices, police (both administrative and regular) county offices, Education offices and other government offices;
8. THAT, the degazettment does not involve any clearance of the forest as it is already being occupied by various Government offices and is situated in Kuresoi Centre;
9. THAT, the issues in respect of which this petition is made is not pending before any court of law or other constitutional or legal body.

THEREFORE, your humble Petitioners pray that the National Assembly through the relevant Departmental Committee-

- (i) pursuant to Standing Order 216(5)(a), the Departmental Committee on Lands does investigate and inquire into all the matters raised in this Petition; and
- (ii) Pursuant to section 34 of the Forest Conservation and Management Act, 2016 the Cabinet Secretary responsible to initiate the process of degazettement and excising 15 acres from Keriso Forest known as L.R. Number -Sitoton compartment 7 Block, to be allocated to Kuresoi Divisional Headquarters.


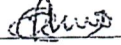
Sign.....

The HON. MOSES CHEBOI, CBS, MP
KURESOI NORTH CONSTITUENCY.

Date.....9.9.2019.....

PETITION TO THE NATIONAL ASSEMBLY ON ALLOCATION OF
LAND TO THE KURESOI DIVISIONAL HEADQUARTERS, KURESOI
NORTH CONSTITUENCY, NAKURU COUNTY

On behalf of:

NO.	NAME	ID. No.	ADDRESS	SIGNATURE
1	JOSHUA NGIGI	3125577	576-MOLO	
2	CHARLES BETI	22172362	27-MOLO	

ANNEXTURE I

**SUBMISSIONS BY THE PRINCIPAL SECRETARY , MINISTRY
OF ENVIRONMENT AND FORESTRY**



MINISTRY OF ENVIRONMENT AND FORESTRY

RESPONSE BY THE PRINCIPAL SECRETARY TO ISSUES RAISED BY THE MEMBER OF PARLIAMENT FOR KURESOI NORTH HON. MOSES CHEBOI, CBS, MP, REGARDING THE DEGAZETTMENT OF 15 ACRES IN KURESOI FOREST RESERVE CURRENTLY OCCUPIED BY DCC OFFICES

Background

The Committee received a Petition No. 07/2019 dated September 11, 2019 submitted by the Member of Parliament for Kuresoi Constituency, Hon. Moses Cheboi, CBS, regarding the degazettment and excision of 15 acres from Kuresoi Forest Reserve.

Kuresoi Forest forms part of the Western Mau Forest, which was gazetted as a Forest Reserve as per Legal Proclamation No. 44 of 1932, and subsequently declared as a Central Forest vide Legal Notice No. 174 of 1964. Kuresoi Forest Station (within the said Western Mau Forest) has two forest blocks, specifically Sitotoni Forest Block and Kuresoi Forest Block.

Kuresoi Forest Block covers an area of approximately **seven thousand three hundred and sixty six nought eight hectares (7366.8 Ha)** which is covered as follows:

Indigenous	–	4418.7 Ha
Plantation	–	2346.1 Ha
Bamboo	–	153.00 Ha
Glade	–	102.00 Ha
Bush land	–	347.00 Ha

Petition Response

Hon. Chair, on the issues raised in the Petition, I wish to respond as follows:-

1. **THAT** one of the principles of land policy as enshrined under Article 60 of the Constitution of Kenya, is that; land will be used and managed in accordance with the principles of sustainable and productive management of land resources, sound conservation and protection of ecologically sensitive area;
2. **THAT** forest land is vested in the National Government which holds it in trust for the people of Kenya and administered by the National Land Commission;
3. **THAT** section 34 of the **Forest Conservation and Management Act, 2016 (FCMA 2016)** confers powers to the National Assembly to vary boundaries and/or revocation of public forests; (**Annex 1**)
4. **THAT** the section states that any person may petition the National Assembly or the Senate, for the variation of boundaries of a public forest or the revocation of the registration of a public forest or a portion of a public forest;
5. **THAT** a petition under sub-section 1 shall demonstrate that the variation of boundaries or revocation of the registration of a public forest or a portion of a public forest does not:-
 - a. Endanger any rare, threatened or endangered species; or
 - b. Adversely affect its value as a water catchment area; and prejudice biodiversity conservation, cultural site protection of the forest or its use for educational, recreational, health or research purposes.

6. **THAT** a petition made under sub-section 1 shall be considered in accordance with the provisions of the Petitions to Parliament (Procedure) Act and the Standing Orders of the relevant House.
7. **THAT** the Ministry of Interior and Coordination of National Government, being a key beneficiary of the petition, be involved in this matter.
8. **THAT** the petition by the Hon. Moses Cheboi, CBS, has **not** been forwarded to My Ministry for consideration and/or recommendation.
9. **THAT** section 34 of the Forest Conservation Management Act 2016 was amended vide the **Statute Law (Miscellaneous Amendments) Act, 2018** to include section 34(2A) which states that a petition under sub-section (1) shall only be forwarded to the National Assembly on the recommendation of the Service; (**Annex 2**)
10. **THAT** the Cabinet Secretary shall, within thirty days of the petition being Committed to the relevant Committee, submit a recommendation on whether the petition should be approved subject to:-
 - a. The petition being subjected to an **independent** Environmental Impact Assessment; and
 - b. Public consultation being undertaken in accordance with the Second Schedule.
11. **THAT**, if the relevant Committee, reports that it finds that the petition:-
 - a. Does not disclose a ground for the variation of the boundaries of a public forest or the revocation the registration of a public forest or a portion of a public forest, no further proceedings shall be taken; or

- b. Discloses a ground for the variation of the boundaries of a public forest or the revocation of the registration of a public forest or a portion of a public forest, the National Assembly or the Senate shall vote on whether to approve the recommendation.

12.THAT, if the resolution is supported by a majority of the members of the National Assembly, present and voting, the Cabinet Secretary shall publish a notice in the Gazette.

THEREFORE, the Ministry of Environment and Forestry on behalf of Kenya Forest Service, and by way of response, hereby prays that the National Assembly through the Departmental Committee on Environment and Natural Resources consider:

1. Pursuant to section 34(2A) of the Forest Conservation and Management Act, 2016, directing that the petition presented by Hon. Moses Cheboi, CBS, to the National Assembly to degazette a portion of Kuresoi Forest Block, be forwarded to my Ministry for consideration and recommendation.
2. Making any other direction that it deems fit in the circumstances of the matter for the benefit of the people of Kenya.

Thank you Chair.



Betty C. Maina, CBS
Principal Secretary
Ministry of Environment and Forestry