

*Approved for tabling.*



REPUBLIC OF KENYA



*BJT*  
*SNA*  
*4/5/16*

*Paper laid by the  
04 MAY 2015  
Chairperson, Departmental  
Committee on Lands on  
4/5/2016 (pm) (BWT)*

NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – FOURTH SESSION – 2016

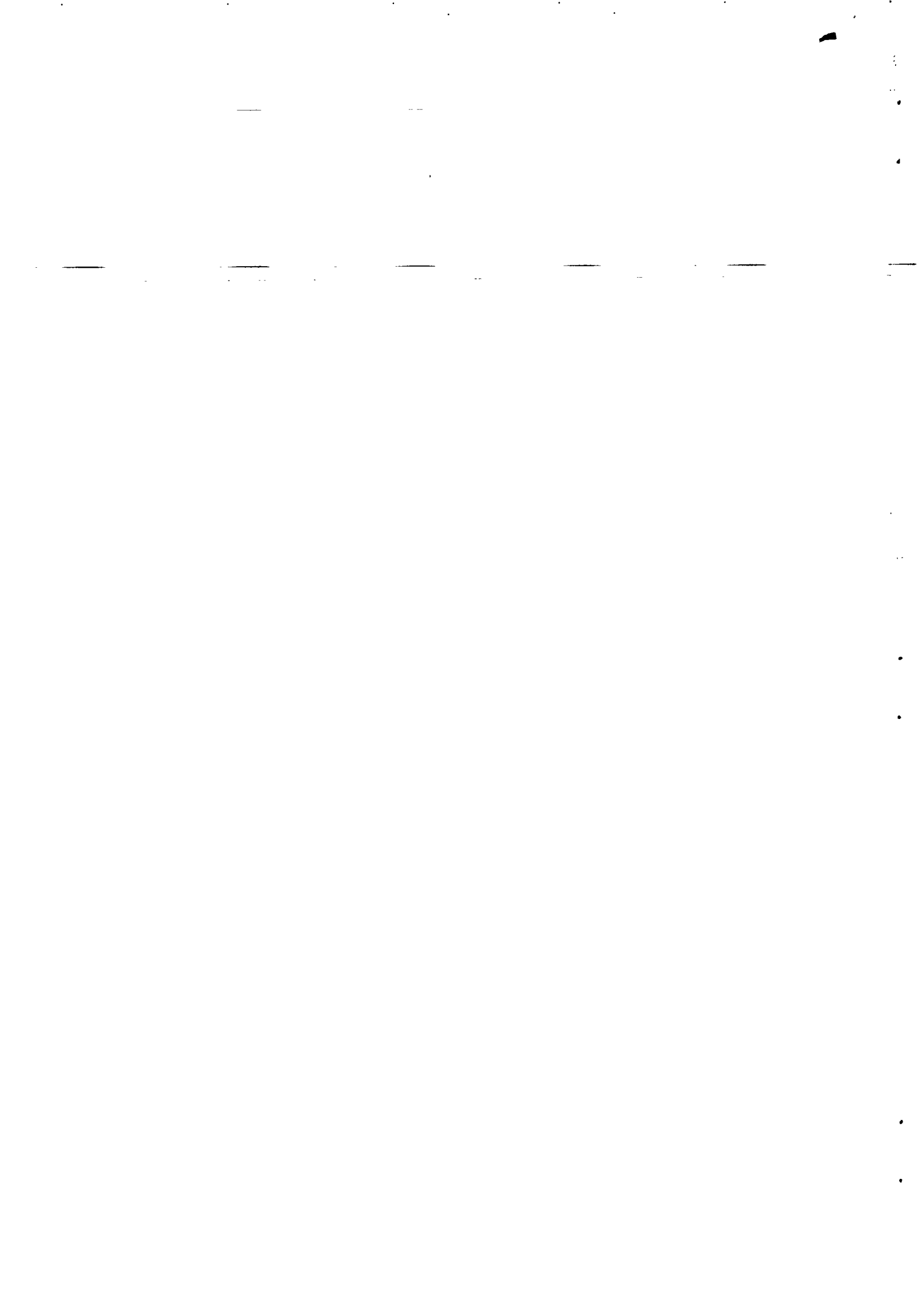
THE DEPARTMENTAL COMMITTEE ON LANDS

REPORT ON THE PETITION REGARDING CEDING OF 1,800 ACRES OF  
CHEBORORWA AGRICULTURAL TRAINING CENTRE TO CHEBORORWA  
COMMUNITY

Published By:-

DIRECTORATE OF COMMITTEE SERVICES,  
CLERK'S CHAMBERS,  
KENYA NATIONAL ASSEMBLY  
PARLIAMENT BUILDINGS,  
NAIROBI

MAY, 2016



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## **2. CHAIRMAN'S FOREWORD**

The Committee in considering the petition conducted an inquiry in order to determine the pertinent issues. It held meetings with the from Hon. William Kisang, Members of Parliament, Marakwet West Constituency, Hon. Silas Tiren, MP, Moiben Constituency and Hon Eusilah Ngeny, MP, Uasin Gichu County., briefed the Committee.

On my own behalf, I wish to commend Members of the Committee for their patience, endurance and hard work during the long sitting hours under tight schedules which enabled us to complete the tasks. Furthermore, the assistance received from the offices of the Speaker and the Clerk of the National Assembly was invaluable. The Committee acknowledges the contribution of witnesses in the preparation of this report by way of submissions and presentations.

Finally, it is my pleasant duty, on behalf of the Departmental Committee on Lands, to present this report in accordance with the provisions of Standing Order 227 which requires that the committee responds to a petition within sixty days through a report addressed to the petitioner(s) and Laid on the Table of the House.

**THE HON. ALEX MWIRU, M.P.**

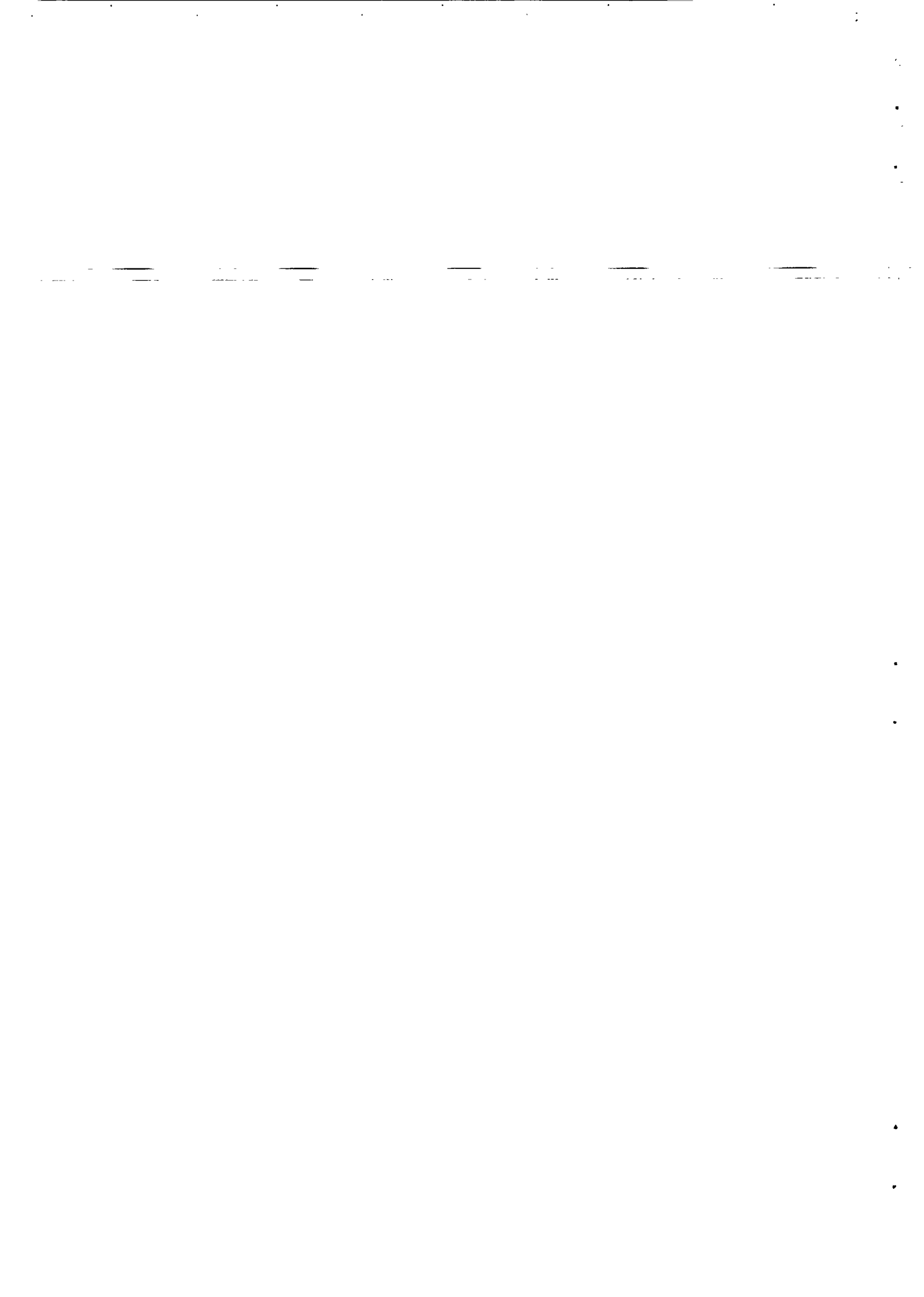
**CHAIRPERSON**



### 3. EXECUTIVE SUMMARY

The aim of this report was to investigate the circumstances under which the Chebororwa farm was transferred from Elgeyo Marakwet County to Uasin-Gishu County. The Committee held several meetings on this matter and apart from the Hon. William Kisang, MP who had brought the Petition; the Committee invited other Members of Parliament who had declared their interest in the matter, that is Hon. Silas Tiren, MP, Moiben Constituency and the Hon. Eusilah Ngeny, MP, Uasin Gishu Women Representative. During the deliberation the Committee found out that the matter is pending determination at the Environmental and Land Court at Eldoret Civil Case No.199 of 2015.

Therefore the Committee resolved that the matter is sub judice and that pursuant to Standing Order Number 89, the Committee is not able to proceed with the proceedings of the matter at hand.



#### 4. MANDATE OF THE COMMITTEE

The Departmental Committee No. K on Lands is established pursuant to the provisions of Standing Order No. 216 (1) and (5) with the following terms of reference:-

- 3 Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations, and estimates of the assigned ministries and departments;
- 4 Study the Programme and policy objectives of Ministries and Departments and effectiveness of the implementation;
- 5 Study and review all legislation referred to it;
- 6 Study, assess and analyze the relative success of the Ministries and Departments as measured by the results obtained as compared with their stated objectives;
- 7 Investigate and inquire into all matters relating to the assigned Ministries and Departments as they may deem necessary, and as they may be referred to them by the House;
- 8 Vet and report on all appointments where the Constitution or any Law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);
- 9 Make reports and recommendations to the House as often as possible, including recommendations on proposed legislation.

The Committee is mandated to Consider the following subjects:-

- a) Land Policy,
- b) Physical Planning,
- c) Land Transactions,
- d) Survey and Mapping,
- e) Land Adjudication,
- f) Settlement,
- g) Land registration,
- h) Land Valuation,
- i) Administration of Private, community and Public Land,
- j) Land Information and Management System.



#### 4.1 Oversight

In executing its Mandate, The Committee oversees the following Government Departments, Namely:-

- a) The State Department for Lands
- b) The National Lands Commission



#### 4.2 Members of the Committee

<b>Chairperson</b>	The Hon. Alex Mwiru, M.P.
<b>Vice Chairperson</b>	The Hon. Moses Ole Sakuda, M.P.
<b>Members</b>	The Hon. Mutava Musyimi, M.P.
	The Hon. John Kihagi, M.P.
	The Hon. Francis W. Nderitu, M.P.
	The Hon. Kipruto Moi, M.P.
	The Hon. Hellen Chepkwony, M.P.
	The Hon. Sarah Korere, M.P.
	The Hon. Benson Mbai, M.P.
	The Hon. Suleiman Dori, M.P.
	The Hon. George Oner, M.P.
	The Hon. Mathew L. Lempurkel, M.P.
	The Hon. Shakila Abdallah, M.P.
	The Hon. Dr. Paul Otuoma, M.P.
	The Hon. Thomas Mwadeghu, M.P.
	The Hon. Joseph Magwanga, M.P.
	The Hon. Ali Shariff Athman, M.P.
	The Hon. Francis Njenga, M.P.
	The Hon. Hezron Awiti Bollo, M.P.
	The Hon. Benard Bett, M.P.
	The Hon. Esther Murugi, M.P.
	The Hon. Oscar Sudi, M.P.
	The Hon. Onesmus Ngunjiri, M.P.
	The Hon. Julius Ndegwa, M.P.
	The Hon. Patrick Kingola, M.P.
	The Hon. Kanini Kega, M.P.
	The Hon. Eusilah Ngeny, M.P.
	The Hon. Lawrence Aburi, M.P.







### 4.3 Secretariat

First Clerk Assistant:-	Mr. James Ginono
Third Clerk Assistant:-	Ms. Ruth Mwhaki
Third Clerk Assistant:-	Mr. Emmanuel Muyodi



## **5.LEGALITY OF THE PETITON**

- 5.1 The Committee considered the petition pursuant to the provision of Standing orders No. 219, 220 and 227;
- 5.2 The Hon. William Kisang, MP while presenting the Petition to the house failed to disclose or was not aware that there was a court case at the Environmental and Land Court at Eldoret Civil Case No.199 of 2015;
- 5.3 The petition fails in its legality as it violates the provisions of Standing Order 89(2) of the House Rules of Procedure;
- 5.4 The Committee in its Consideration, resolved to terminate the proceedings affecting this Petitions.



## 6.0 INTRODUCTION

- 6.0.1 On Tuesday 4<sup>th</sup> August, 2015 the Hon. William Kisang, MP tabled a Petition before the House pursuant to Article 119 (1) of the Constitution of Kenya 2010 and Standing Order 219; on behalf of residents of Chebororwa Community in Marakwet West Constituency regarding ceding of 1,800 acres of Chebororwa Agricultural Training Centre to Chebororwa community;
- 6.0.2 The House pursuant to Standing Order 227 referred the Petition to the Departmental Committee on Lands for preparation of the Report;
- 6.0.3 The Committee received the Petition on Thursday 22<sup>nd</sup> October 2015 and set out a procedure for the consideration and to report to the House within 60 days as set out in Standing order no 227(2);
- 6.0.4 During the colonial period, approximately 2,500 acres of land belonging to Chebororwa Community was set aside for establishment of a training Centre for farmers from Elgeyo Marakwet, West Pokot, Baringo, Uasin Gichu and Trans Nzoia areas;
- 6.0.5 In their Petition, they informed the House that:-
1. The land was then the community's sole source of livelihood on which they depended for grazing, cultivation, water and other essential needs including medicinal herbs;
  2. In 1943, the farm was made a vaccination ground and later converted to Chebororwa Farmers Training Centre, now called Chebororwa Agricultural Training Centre (ATC);
  3. Between 1956 and 1957, the land was fenced, resulting in eviction of locals, demolition of their settlements, destruction of property and confiscation of livestock;
  4. This condemned residents of Chebororwa to homelessness, abject poverty and psychological trauma due to being forced to live along dangerous cliffs on Kebelio Hills;
  5. In 1996, the Ministry of Agriculture, Livestock Development and Marketing approved a request from Marakwet District Development Committee to hive off 1,800 acres of the said land for settlement of squatters who had been evicted in 1957;
  6. Between 2010 and 2012, the Transitional Authority (TA) transferred the Chebororwa ATC from Elgeyo Marakwet County to Uasin Gishu County without consulting local residents of Elgeyo-Marakwet where it was originally located;
  7. By alienating any community farm land, which is the economic mainstay for the livelihoods of many Kenyans violates their right to a decent life as provided for in Article 43(1) of the Constitution;



8. Promises by both colonial and independence governments and efforts from local leaders to address the plight of residents by returning their land have never borne fruit;
9. The matter in respect of which this petition is raised is not pending before any court of law or constitutional body.

6.0.6 The Petitioners want the House, through the Departmental Committee on Lands to:-

- a) Investigates ~~the circumstances under which the land was transferred from Elgeyo Marakwet County to Uasin-Gishu County~~, and stops the latter from undertaking any developments on the land pending settlement of the dispute
- b) Intervenes to ensure that all land processes and transactions in respect to Chebororwa A.T.C farm by the Ministry of Lands are suspended forthwith, pending determination of the dispute;
- c) Recommends that the Government ensures that the 1,800 acres set aside for the local community in 1996 reverts to them: and
- d) Makes any other recommendations(s) that the Committee may deem necessary for addressing the plight of the Petitioners

## 6.1 Evidence

### 6.1.1 Evidence from the Hon. William Kisang, M.P

On 12<sup>th</sup> November 2015, he informed the Committee as follows:-

- a. The name Chebororwa is derived from a clan known as Kapchebororwa; the natives of Chebororwa area;
- b. The suit land is community land and has been so since time immemorial;
- c. Kapchebororwa land belongs to the Ogiek Community who inhabited the entire Chebororwa area alongside other Elgeyo communities during the Colonial era;
- d. Members of Chebororwa Community were all born and brought up on the said land by their forefathers who are all buried on the farm;
- e. Chebororwa Community have been living on the land and have been utilizing the same for purposes of planting crops, grazing their livestock, fetching firewood and water, among other many other crucial necessities;
- f. In 1943, the farm was made a vaccination ground;
- g. In 1955, the Ministry of Agriculture approached Chebororwa Community to surrender a portion from the said land to be used as a training and vaccination centre for farmers from



Elgeyo-Marakwet, West Pokot, Baringo, Uasin Gishu and Trans Nzoia areas; the community was requested to surrender 677.5 acres and retain 1800 acres;

- h. The Ministry of Agriculture entered the land on a genuine bargain to establish an Agricultural Training Centre on 677.5 acres but has now decided to fraudulently take all the 2,500 acres;
- i. The Chebororwa Farm, provisional numbers V.R 2210 and V.R 3047 all measuring 2,500 acres in total belongs to Chebororwa Community. Chebororwa Community are the owners of 1,800 acres whereas the Chebororwa Agricultural Training Centre and the Ministry of Agriculture are entitled to 677.5 acres;
- j. Members of Chebororwa Community are now living in abject poverty since they have nowhere to call home because the 1,800 acres they were promised have been taken by the Government;
- k. In 1996, the Ministry of Agriculture, Livestock Development and Marketing approved a request from Marakwet District Development Committee to hive off 1,800 acres of the said land for settlement of squatters who had been evicted in 1957;
- l. Between 2010 and 2012, the Government through the Transition Authority transferred Chebororwa Farmers Training Centre to Uasin-Gishu County without the consent of members of Chebororwa Community;
- m. Sometimes in June 2015, Chebororwa Agricultural Training Centre entered the land and is in the process of fencing off and illegally putting up an electric fence around the farm while some families and properties are on the said land and this may lead to anarchy;
- n. The construction of electric fence will greatly inconvenience the community yet they were not even involved in the decision to fence the property. There was no environmental impact assessment done before constructing the said electric fence.

He further requested that the Committee visit the area to intervene in the dispute with a view to establishing:-

- The circumstances under which the land was transferred from Elgeyo-Marakwet County to Uasin Gishu County;
- Establish the *bona fide* owners of the disputed land; and make recommendations that the Committee may deem necessary for addressing the plight of the petitioners.



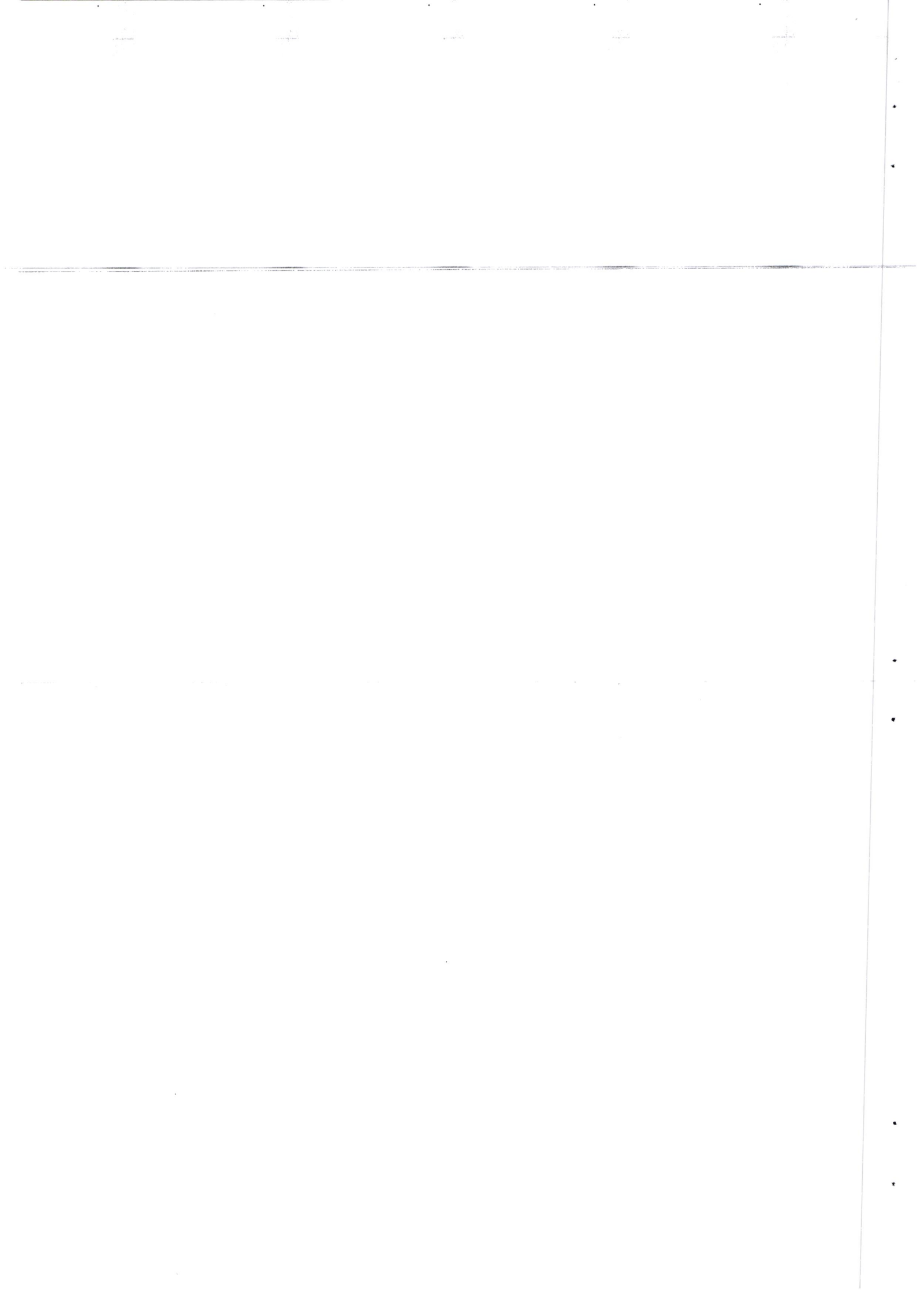
### **6.1.2 Evidence from the Hon.Silas Tiren, MP**

On 17<sup>th</sup> November 2015, he informed the Committee as follows: -

- a. The Agricultural Training Centre (A.T.C) farm is a facility in Uasin-Gishu County and benefits all the residents in terms of agriculture;
- b. The farm is located at the border end of UasinGishu County and it is registered under Registration of Titles Act (RTA) and Registration of Lands Act (RLA) LR No. 2222 and LR. No. 2210;
- c. The ATC was started for the purposes of livestock vaccination and the land was set aside by the elders during the colonial period;
- d. The area had a salt lick and it was a grazing area for livestock after vaccination;
- e. The ATC served the then Trans Nzoia, West Pokot, Baringo, UasinGishu and Elgeyo/ Marakwet districts;
- f. Sometimes in June 2015, Chebororwa Agricultural Training Centre entered the land and is in the process of putting up an electric fence around the farm after the reported cases of illegal grazing in the area;
- g. Between 2010 and 2012, the Transition Authority transferred the Chebororwa ATC from Elgeyo-Marakwet County to UasinGishu County.

### **6.1.3 Evidence from the Hon. Eusilah Ngeny, MP**

- a. On 17<sup>th</sup> November 2015, she informed the Committee that the matter is in the Environmental and Land Court at Eldoret, Civil Case No. 199 of 2015. She thereafter tabled the pleadings filed in the case.
- b. She pleaded with the Committee to stay considering the matter pursuant to the provision of Standing order No. 89 (2) and 89 (4)

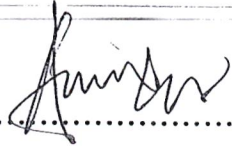


**7. FINDINGS**

The Committee made the following observations from evidence adduced in meetings and the field visit, that:

- The matter is active at the Environmental and Land Court in Eldoret, Civil Case No. 199 of 2015.

SIGNED: .....



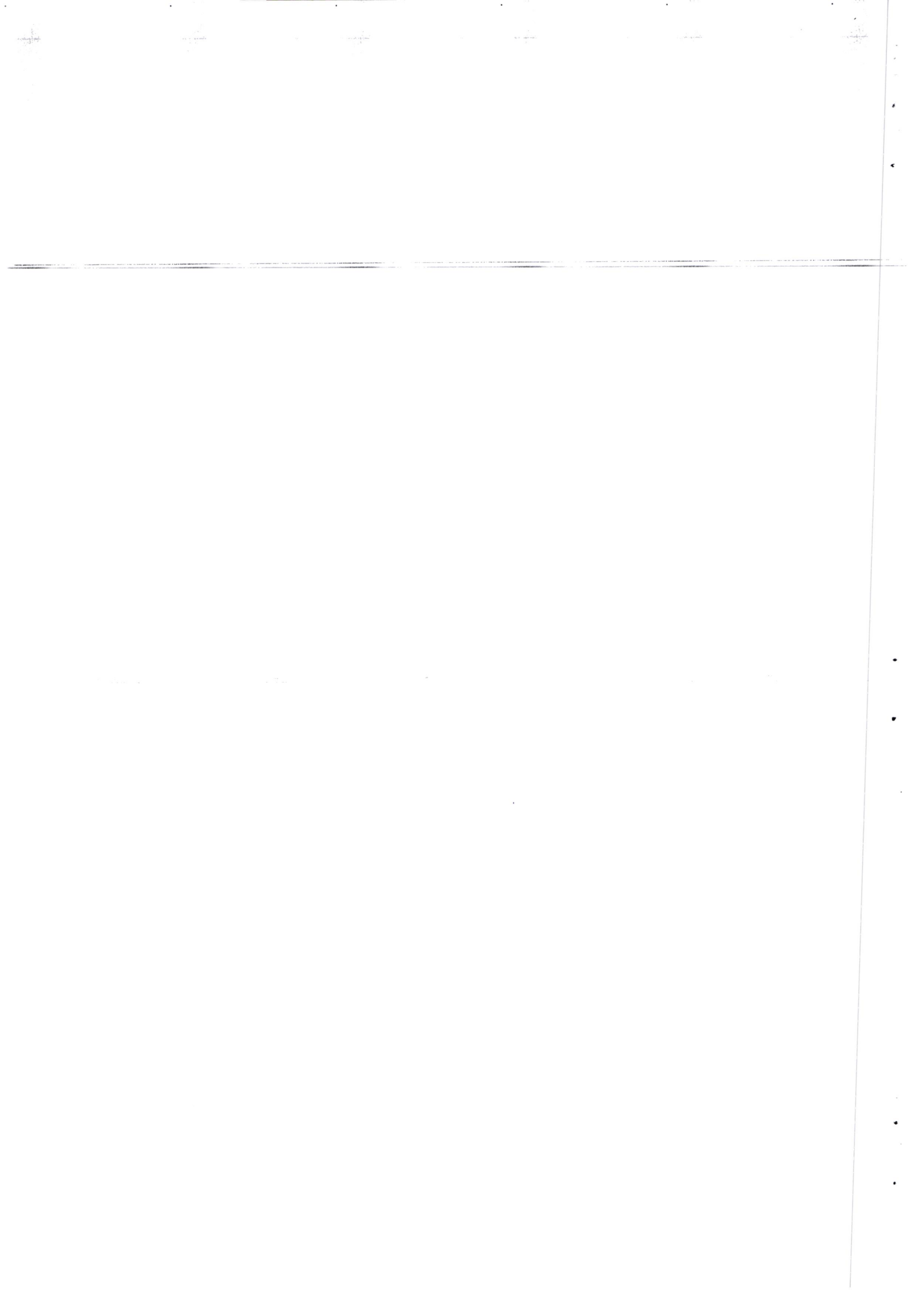
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4<sup>th</sup> May 2016

(HON. ALEX M. MWIRU, MP)

CHAIRPERSON

DEPARTMENTAL COMMITTEE ON LANDS



# MINUTES



**MINUTES OF THE 4<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON FRIDAY  
5<sup>TH</sup> FEBRUARY 2016 HELD IN THE KARIBU CONFERENCE ROOM, TRAVELLERS BEACH HOTEL AND SPA, AT  
9.00 A.M**

**PRESENT:**

1. The Hon. Alex Mwiru, M.P. Chairperson
2. The Hon. Moses Ole Sakuda, M.P. Vice - Chairperson
3. The Hon. John Kihagi, M.P.
4. The Hon. Bernard Bett, M.P.
5. The Hon. Hellen Chepkwony, M.P.
6. The Hon. Benson Mbai, M.P.
7. The Hon. Hezron Awiti Bollo, M.P.
8. The Hon. Onesmus Ngunjiri, M.P.
9. The Hon. George Oner, M.P.
10. The Hon. Thomas Mwadeghu, M.P.
11. The Hon. Joseph Oyugi Magwanga, M.P.
12. The Hon. A. Shariff, M.P.
13. The Hon. Francis Njenga Kigo, M.P.
14. The Hon. Shakila Abdallah, M.P.
15. The Hon. Dr. Paul Otuoma, M.P.
16. The Hon. Gideon Mung'aro, M.P.
17. The Hon. Suleiman Dori, M.P.
18. The Hon. Mathew L. Lempurkel, M.P.
19. The Hon. Mpuru Aburi, M.P.
20. The Hon. Sarah Korere, M.P.
21. The Hon. Julius Ndegwa, M.P.
22. The Hon. Francis W. Nderitu, M.P.
23. The Hon. Eusilah Ngeny, M.P.
24. The Hon. Kipruto Moi, M.P.
25. The Hon. Oscar Sudi, M.P.

**ABSENT WITH APOLOGIES:**

1. The Hon. Mutava Musyimi, M.P.
2. The Hon. Kanini Kega, M.P.
3. The Hon. Esther Murugi, M.P.
4. The Hon. Patrick Makau, M.P.

**IN ATTENDANCE:**

**KENYA NATIONAL ASSEMBLY**

1. Mr. James Ginono Clerk Assistant I
2. Mr. Emmanuel Muyodi Clerk Assistant III
3. Mr. Joshua K. Ondari Clerk Assistant III
4. Ms. Christine Odhiambo Legal Counsel
5. Ms. Rehema Chepkurui Audio Officer



MINUTE NO. DCL/LN/2016/19

PRELIMINARIES

The Chairperson called the meeting to order at 9.10 am, followed by a word of prayer.

MINUTE NO. DCL/LN/2016/20

AGENDA ADOPTION

The agenda of the meeting was adopted as hereunder after being proposed by the Hon. Joseph Oyugi Magwanga, M.P. and seconded by the Hon. Mathew L. Lempurkel, M.P.

AGENDA

1. Prayers
2. Communication from the Chair
3. Confirmation of Minutes
4. Matters Arising
5. Bills
6. Petitions
7. Papers
8. Statements
9. Substantive Agenda:-  
Consideration and adoption of Report on the Petition Regarding Ceding of 1,800 Acres of Chebororwa Agricultural Training Centre to Chebororwa Community
10. Any Other Business
11. Date of the Next Sitting

MINUTE NO. DCL/LN/2016/15

REPORT ON THE PETITION REGARDING CEDING OF 1,800 ACRES  
OF CHEBORORWA AGRICULTURAL TRAINING CENTRE TO  
CHEBORORWA COMMUNITY

The Committee Considered and adopted the report after being proposed by the Hon. Francis W. Nderitu, M.P. and seconded by Hon. Francis Njenga Kigo, M.P. as follows:

The Committee made the following observation from evidence adduced in meetings, That:-

- The matter is active at the Environmental and Land Court in Eldoret, Civil Case No. 199 of 2015.

The Committee recommends, That:

- The matter is subjudice since it is pending determination at the Environmental and Land Court at Eldoret Civil Case No. 199 of 2015 and therefore pursuant to S/O No. 89, the Committee is not able to proceed with the proceedings of the matter at hand.

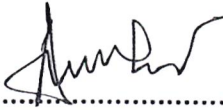


MINUTE NO. DCL/LN/2016/16

ADJOURNMENT & DATE OF THE NEXT  
SITTING

There being no any other business, and the time being 12.50 p.m. the Chair adjourned the sitting.

SIGNED



.....  
(CHAIRPERSON)

DATE

3/3/2016  
.....



**MINUTES OF THE 217<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON THURSDAY 12<sup>TH</sup> NOVEMBER, 2015, AT MEMBERS LOUNGE AT 11.00 AM**

**PRESENT:**

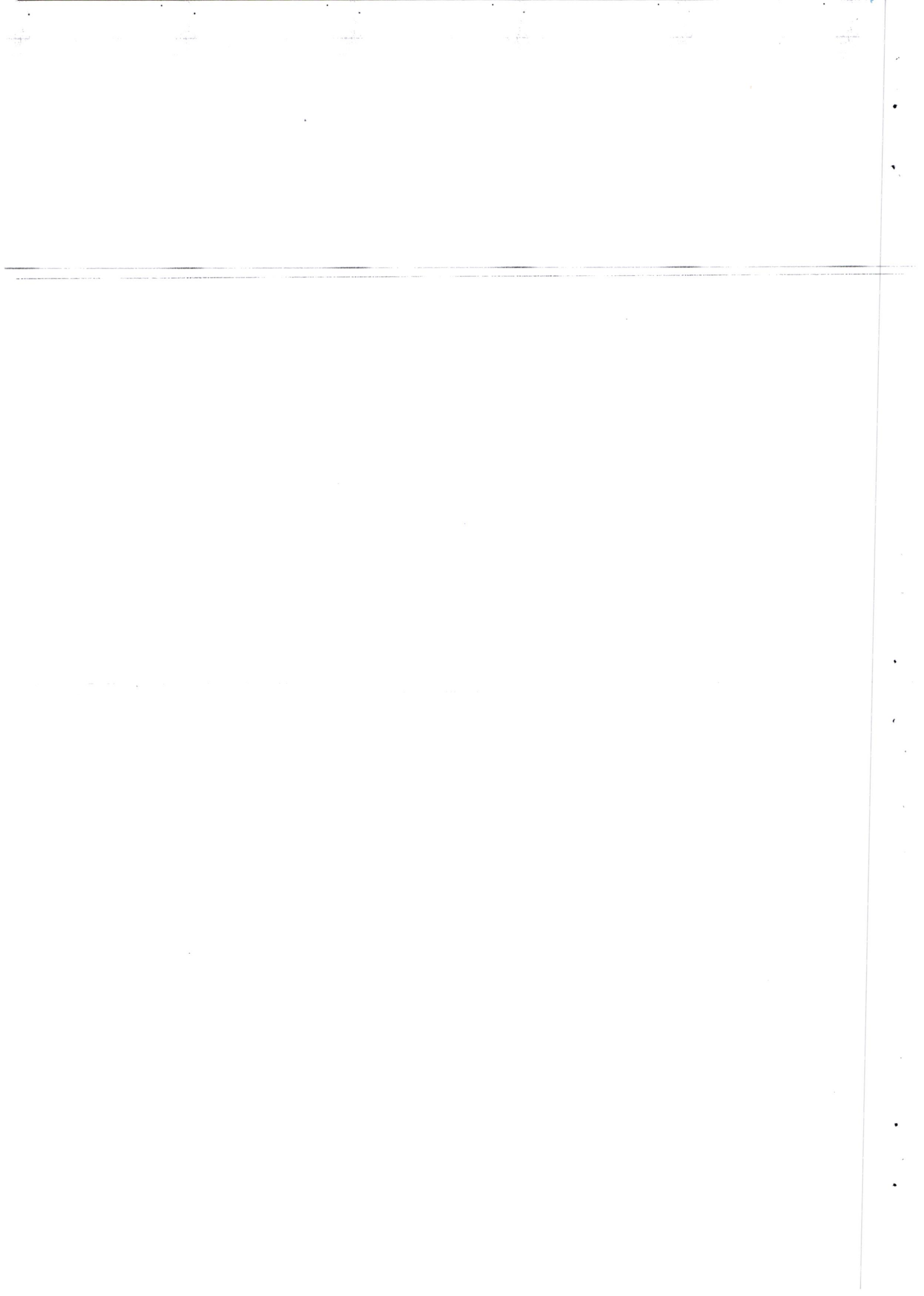
1. The Hon. Alex Mwiru, M.P. - Chairperson
2. The Hon. Bernard Bett, M.P.
3. The Hon. John Kihagi, M.P.
4. The Hon. Francis W. Nderitu, M.P.
5. The Hon. Benson Mbai, M.P.
6. The Hon. Dr. Paul Otuoma, M.P.
7. The Hon. Eusilah Ngeny, M.P.
8. The Hon. Francis Njenga Kigo, M.P.
9. The Hon. Kanini Kega, M.P.
10. The Hon. Hellen Chepkwony, M.P.
11. The Hon. Suleiman Dori, M.P.
12. The Hon. Sarah Korere, M.P.
13. The Hon. Mathew L. Lempurkel, M.P.
14. The Hon. Shakila Abdallah, M.P.
15. The Hon. Thomas Mwadeghu, M.P.
16. The Hon. Joseph Oyugi Magwanga, M.P.
17. The Hon. Mutava Musyimi, M.P.
18. The Hon. A. Shariff, M.P.

**ABSENT WITH APOLOGIES:**

1. The Hon. Moses Ole Sakuda, M.P. - Vice Chairperson
2. The Hon. Gideon Mung'aro, M.P.
3. The Hon. Esther Murugi, M.P.
4. The Hon. Onesmus Ngunjiri, M.P.
5. The Hon. Julius Ndegwa, M.P.
6. The Hon. Hezron Awiti Bollo, M.P.
7. The Hon. George Oner, M.P.
8. The Hon. Kipruto Moi, M.P.
9. The Hon. Mpuru Aburi, M.P.
10. The Hon. Patrick Makau, M.P.

**ABSENT WITHOUT APOLOGIES:**

1. The Hon. Oscar Sudi, M.P.



IN ATTENDANCE:

KENYA NATIONAL ASSEMBLY

- |                        |                     |
|------------------------|---------------------|
| 1. James Ginono        | Clerk Assistant I   |
| 2. Ruth Mwhaki         | Clerk Assistant III |
| 3. Mr. Emmanuel Muyodi | Clerk Assistant III |
| 4. Christine Odhiambo  | Legal Counsel       |

MINUTE NO. DCL/LN/2015/784      PRELIMINARIES

The Chairman called the meeting to order at 11.15 a.m. with a word of prayer from the Hon. John Kihagi, M.P.

MINUTE NO. DCL/LN/2015/785

PETITION BY HON. WILLIAM KISANG M.P.  
ON BEHALF OF MEMBERS OF  
CHEBORORWA COMMUNITY IN  
MARAKWET WEST CONSTITUENCY,  
REGARDING CEDING OF 1,800 ACRES OF  
CHEBORORWA AGRICULTURAL TRAINING  
CENTRE TO CHEBORORWA COMMUNITY

While appearing before the Committee the Hon. William Kisang, M.P. informed the Committee as understated:

1. The name Chebororwa is derived from a clan known as Kapchebororwa; the natives of Chebororwa area;
2. The suit land is Community land and has been so since time immemorial;
3. Kapchebororwa land belongs to the Ogiek Community who inhabited the entire Chebororwa area alongside other Elgeyo communities during the Colonial era;
4. Members of Chebororwa community were all born and brought up on the said land by their forefathers who are all buried on the farm;
5. Chebororwa Community have been living on the land and have been utilizing the same for purposes of planting crops, grazing their livestock, fetching firewood and water among other many other crucial necessities;
6. In 1943 the farm was made a vaccination ground;
7. In the year 1955, the Ministry of Agriculture approached Chebororwa community to surrender a portion from the suit land to be used as a training and vaccination center for farmers from Elgeyo Marakwet, West Pokot, west Pokot, Baringo, Uasin



Gishu and Trans Nzoia areas; the community was requested to surrender 677.5 acres and retain possession of 1800 acres;

8. The Ministry of Agriculture entered the land on a genuine bargain to establish an Agricultural Training Centre on 677.5 acres but has now decided to fraudulently take all the 2,500 acres;
9. The Chebororwa farm, provisional numbers V.R 2210 and V.R 3047 all measuring 2,500 acres in total belongs to Chebororwa community. Chebororwa community are the owners of 1800 acres whereas the Chebororwa Agricultural Training Centre and the Ministry of Agriculture are entitled to 677.5 acres;
10. Members of Chebororwa community are now living in abject poverty since they have nowhere to call home because the 1,800 acres they were promised have been taken by the government;
11. In 1996, the Ministry of Agriculture, Livestock Development and Marketing approved a request from Marakwet District Development Committee to hive off 1,800 acres of the said land for settlement of squatters who had been evicted in 1957;
12. Between 2010 and 2012, the Government through the Transition Authority transferred Chebororwa Farmers Training Center to Uasin-Gishu County without the consent of members of Chebororwa community
13. Sometimes in June 2015, Chebororwa Agricultural Training Centre entered the land and is in the process of fencing off and illegally putting up an electric fence around the farm while some families and properties are on the suit land and this may lead to anarchy;
14. The construction of electric fence will greatly inconvenience the Community and yet they were not even involved in the decision to fence the property, and there was no environmental impact assessment done before constructing the said electric fence;

He further requested that the Committee visit the area to intervene in the dispute with a view to establishing:-



1. The circumstances under which the land was transferred from Elgeyo Marakwet County to Uasin- Gishu County;
2. Establish the bonafide owners of the disputed land; and make recommendations that the Committee may deem necessary for addressing the plight of the Petitioners.

**The Committee resolved, That :-**

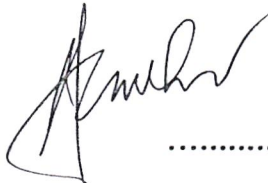
- A.** The Ministry of Livestock, Agriculture and Fisheries be invited to shed more light on the following:-
- a) The Purpose for which the land was set apart;
  - b) The acreage in use by Chebororwa Agricultural Training Centre;
  - c) Provide approvals by the Ministry to hive off 1800 acres for settlement of squatters who had been evicted and or allocation letters;
  - d) Provide ownership documents for the land;
- B.** The Transitional Authority be invited to shed more light on the following:-
- a. What informed the decision to transfer the Land from Elgeyo Marakwet to Uasin Gichu County;
  - b. The acreage of the land transferred and the assets therein;
  - c. Any other information as may be relevant to the petition.
- C.** The Independent Electoral Boundaries Commission (IEBC) be invited to Confirm the boundaries and location of Chebororwa Agricultural Training Centre.

MINUTE NO. DCL/LN/2015/ 786

ADJOURNMENT & DATE OF THE NEXT  
SITTING

There being no any other business, and the time being 12.40 p.m., the meeting was adjourned.

SIGNED



18/02/2016

.....  
(CHAIRPERSON)



DATE

17/02/2016



MINUTES OF THE 218<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON  
LANDS HELD ON TUESDAY 17<sup>TH</sup> NOVEMBER, 2015, 7<sup>TH</sup> FLOOR CONTINENTAL  
HOUSE AT 10.00 AM

**PRESENT:**

1. The Hon. Alex Mwiru, M.P. - Chairperson
2. The Hon. Bernard Bett, M.P.
3. The Hon. Francis W. Nderitu, M.P.
4. The Hon. Benson Mbai, M.P.
5. The Hon. Dr. Paul Otuoma, M.P.
6. The Hon. Eusilah Ngeny, M.P.
7. The Hon. Francis Njenga Kigo, M.P.
8. The Hon. Hellen Chepkwony, M.P.
9. The Hon. Suleiman Dori, M.P.
10. The Hon. Thomas Mwadeghu, M.P.
11. The Hon. Patrick Makau, M.P.
12. The Hon. George Oner, M.P.
13. The Hon. Hezron Awiti Bollo, M.P.

**ABSENT WITH APOLOGIES:**

1. The Hon. Moses Ole Sakuda, M.P. – Vice Chairperson
2. The Hon. Gideon Mung'aro, M.P.
3. The Hon. Esther Murugi, M.P.
4. The Hon. Onesmus Ngunjiri, M.P.
5. The Hon. Julius Ndegwa, M.P.
6. The Hon. Mpuru Aburi, M.P.
7. The Hon. John Kihagi, M.P.
8. The Hon. Mutava Musyimi, M.P.
9. The Hon. A. Shariff, M.P.
10. The Hon. Sarah Korere, M.P.
11. The Hon. Kanini Kega, M.P.
12. The Hon. Mathew L. Lempurkel, M.P.
13. The Hon. Shakila Abdallah, M.P.
14. The Hon. Joseph Oyugi Magwanga, M.P.
15. The Hon. Kipruto Moi, M.P.

**ABSENT WITHOUT APOLOGIES:**

1. The Hon. Oscar Sudi, M.P.



**IN ATTENDANCE:**

**KENYA NATIONAL ASSEMBLY**

- |                        |                     |
|------------------------|---------------------|
| 1. James Ginono        | Clerk Assistant i   |
| 2. Ruth Mwhaki         | Clerk Assistant III |
| 3. Mr. Emmanuel Muyodi | Clerk Assistant III |
| 4. Christine Odhiambo  | Legal Counsel       |

**MINUTE NO. DCL/LN/2015/792**      **PRELIMINARIES**

The Chairman called the meeting to order at 10.15 a.m. with a word of prayer from the Hon. Bernard Bett, M.P.

**MINUTE NO. DCL/LN/2015/793**      **BRIEFING BY THE HON SILAS TIREN, M.P. ON  
THE PETITION REGARDING CEDING OF 1,800  
ACRES OF CHEBORORWA AGRICULTURAL  
TRAINING CENTRE TO CHEBORORWA  
COMMUNITY**

While appearing before the Committee on 17<sup>th</sup> November 2015, the Hon. Silas Tiren, M.P informed the Committee as that:-

1. The Agricultural Training Centre (A.T.C) farm is a facility in Uasin-Gishu County and benefits all the residents in terms of Agriculture;
2. The Farm is located at the border end of Uasin-Gishu County and it is registered under registration of titles Act (RTA) and registration of Lands Act (RLA) RL 2222 and LR. No. 2210;
3. The A.T.C was started for the purposes of livestock vaccination and the land was set aside by the elders during the colonial period;
4. The area had a salt lick and it was a grazing area for livestock after vaccination;
5. The A.T.C served the then Trans Nzoia, West Pokot, Baringo, Uasin Gishu and Elgeyo/ Marakwet districts;
6. Sometimes in June 2015, Chebororwa Agricultural Training Centre entered the land and is in the process of putting up an electric fence around the farm after the reported cases of illegal grazing in the area;
7. Between 2010 and 2012 the Transition Authority transferred the Chebororwa A.T.C from Elgeyo Marakwet County to Uasin- Gishu County.



Hon. William Kisang, M.P

While appearing before the Committee the area Member of Parliament requested that the Committee visit the area to intervene in the dispute with a view to establishing:-

1. The circumstances under which the land was transferred from Elgeyo Marakwet County to Uasin- Gishu County;
2. Establish the bonafide owners of the disputed land; and make recommendations that the Committee may deem necessary for addressing the plight of the Petitioners.

Hon. Eusilah Hon. Eusilah Ngeny, M.P.

While appearing before the Committee on 17<sup>th</sup> November, 2015, the Hon. Eusilah Ngeny, M.P declared her interest in the matter under Standing Order 90, and informed the Committee that the matter is in the Environmental and Land Court at Eldoret, Civil Case No. 199 of 2015. She thereafter tabled the pleadings filed in the case.

The Committee thereafter made the following resolution:-

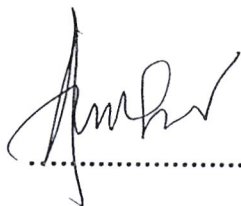
The Committee resolved that the secretariat researches and notifies the Committee members if the matter is still active in Court.

MINUTE NO. DCL/LN/2015/ 794

ADJOURNMENT & DATE OF THE NEXT SITTING

There being no any other business, and the time being 12.40 p.m., the meeting was adjourned.

SIGNED



.....  
(CHAIRPERSON)

DATE

4<sup>th</sup> May 2016  
.....

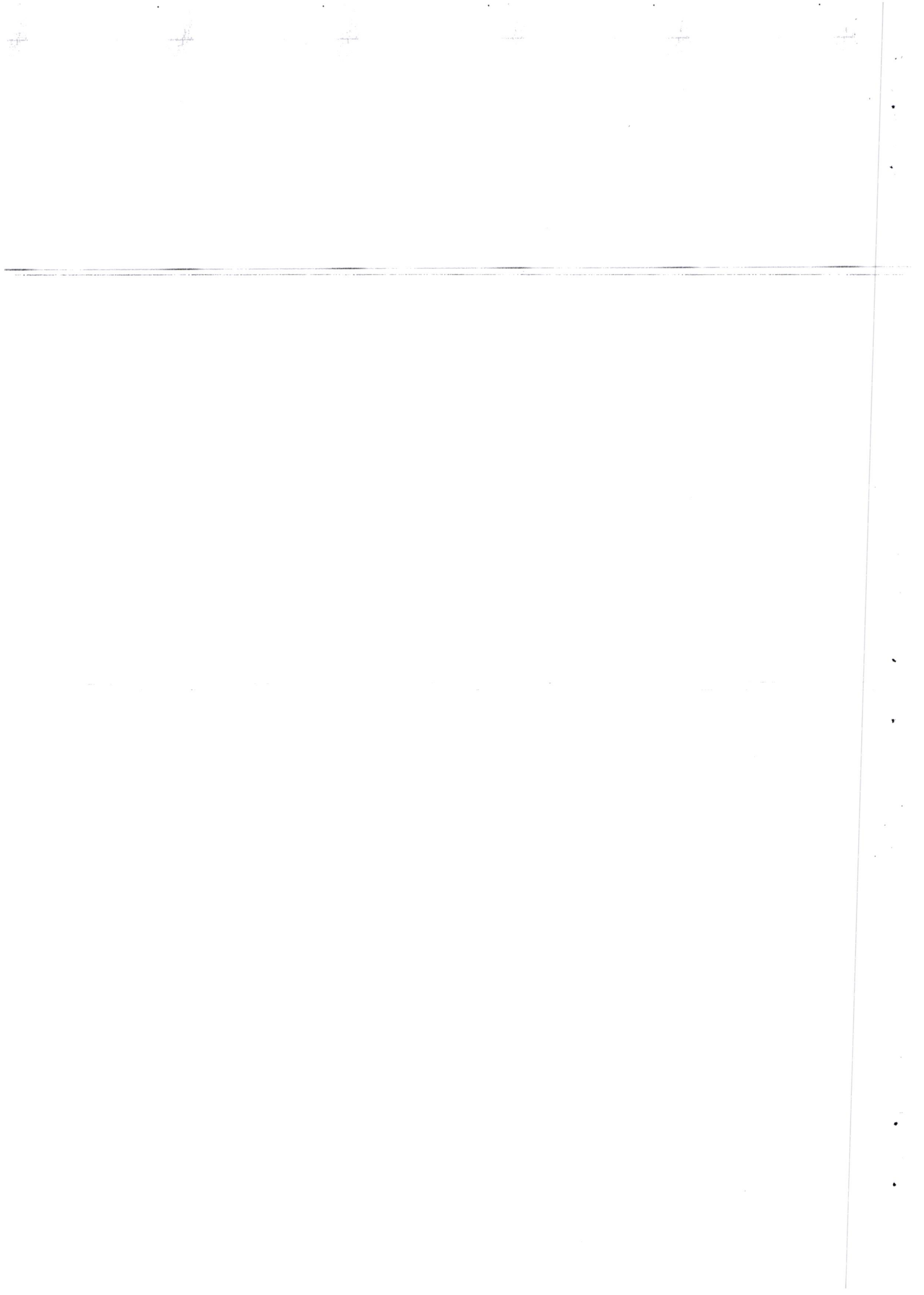


# ADOPTION LIST



DEPARTMENTAL COMMITTEE ON LANDS  
 ADOPTION OF REPORT ON THE PETITION REGARDING CEDING OF 1,800 ACRES OF CHEBORORWA  
 AGRICULTURAL TRAINING CENTRE TO CHEBORORWA COMMUNITY  
 VENUE: TRAVELERS BEACH RESORT AND SPA, MOMBASA. DATE: 04/2/2016

NO.	NAME	TITLE	SIGNATURE
1.	The Hon. Alex Mwiru, M.P. (Chairperson)		
2.	The Hon. Moses Ole Sakuda, M.P (Vice-Chairperson)		
3.	The Hon. Onesmas Ngunjiri, M.P.		
4.	The Hon. Mutava Musyimi, M.P.		
5.	The Hon. John Kihagi, M.P.		
6.	The Hon. Francis W. Nderitu, M.P.	Member	<del>Signature</del>
7.	The Hon. Francis Njenga, M.P.	member	
8.	The Hon. A. Shariff, M.P.		
9.	The Hon. Eusilah Jepkosgei, M.P.		
10.	The Hon. Benard Bett, M.P.	member	Signature
11.	The Hon. Kipruto Moi, M.P.		
12.	The Hon. Oscar Sudi, M.P.		
13.	The Hon. Hellen Chepkwony, M.P.	Member	Signature
14.	The Hon. Sarah Korere, M.P.	member	Signature
15.	The Hon. Julius Ndegwa, M.P.		
16.	The Hon. Benson Mbai, M.P.		
17.	The Hon. Kanini Kega, M.P.		
18.	The Hon. Esther Murugi, M.P.		
19.	The Hon. Gideon M. Mung'aro, M.P.		
20.	The Hon. Hezron Awiti Bollo, M.P.		
21.	The Hon. Suleiman Dori Ramadhani, M.P.	"	
22.	The Hon. George Oner Ogalo, M.P.	Member	Signature
23.	The Hon. Lekidime L. Mathew, M.P.	"	
24.	The Hon. Shakila Abdallah, M.P.		
25.	The Hon. Paul Otuoma, M.P.		
26.	The Hon. Thomas Mwadeghu, M.P.		
27.	The Hon. Magwanga Joseph Oyugi, M.P.	member	Signature
28.	The Hon. Aburi Lawrence Mpuu, M.P.		
29.	The Hon. King'ola Patrick Makau, M.P.		



# SUBMISSIONS



*Filed by the hotel  
Ngũgĩ, Kip  
17th Nov 2015*

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT ELDORET

CIVIL CASE NO. 199 OF 2015

KIMITEI ROTICH  
PAULO CHEPKURGAT  
ELIZABETH KIPKEMBOI

REPUBLIC OF KENYA  
HIGH COURT OF KENYA  
ELDORET DISTRICT  
ENVIRONMENT AND LAND COURT  
PLAINTIFF  
09 JUL 2015  
RECEIVED  
P.O. BOX 141 ELDORET-30100  
1<sup>ST</sup> DEFENDANT

VERSUS

THE BOARD OF GOVERNORS  
CHEBORORWA AGRICULTURAL TRAINING  
CENTRE

THE MINISTRY OF AGRICULTURE.....2<sup>ND</sup> DEFENDANT

THE ATTORNEY GENERAL on behalf of  
the commissioner of lands.....3<sup>RD</sup> DEFENDANT

PLAINT

(MULTI TRACK CLAIM)

1. THE 1<sup>st</sup> plaintiff is a Male Adult of sound mind suing on his behalf and on behalf of the other 88 members of Chebororwo community, his address of service for the purpose of this suit shall be care of M/S W.KIGEN & COMPANY ADVOCATES, WATER GATES PLAZA ROOM NO.M13, RONALD NGALA STREET, P.O BOX 8784-30100 ELDORET.
2. THE 2<sup>nd</sup> plaintiff is a Male individual of sound mind suing on his behalf and on behalf of the other 88 members of Chebororwo Community, his Address of service for the purpose of this suit shall be M/S W.KIGEN & COMPANY ADVOCATES, WATER GATES PLAZA ROOM NO.M13, RONALD NGALA STREET, P.O BOX 8784-30100 ELDORET.
3. THE 3<sup>rd</sup> plaintiff is a female individual of sound mind suing on her behalf and on behalf of the other 88 members of Chebororwo Community, her Address of service for the purpose of this suit shall be M/S W.KIGEN & COMPANY ADVOCATES, WATER GATES PLAZA ROOM NO.M13, RONALD NGALA STREET, P.O BOX 8784-30100 ELDORET.
4. THE 1<sup>st</sup> Defendant is a government of Kenya institution established under the ministry of Agriculture (service of summons upon them shall be effected through the plaintiff's Advocate offices)



THE 2<sup>nd</sup> Defendant which is the Ministry of Agriculture is a Government Ministry of the Republic of Kenya whose head office is in Kilimo House Nairobi. (service of summons shall be effected through the plaintiff's Advocate office.)

6. THE 3<sup>rd</sup> Defendant is the Attorney General of the Republic of Kenya and is being sued on behalf of the commissioner of lands (Service of summons shall be affected through the plaintiff Advocate offices)
7. THAT the suit land CHEBORORWA FARM provisional numbers V.R 2210 and V.R 3047 all measuring 2500 acres in total belongs to the plaintiffs.
8. THAT the same is actually unregistered but the same was secretly surveyed by the Defendants into provisional numbers V.R 2210 and V.R 3047 in order to fraudulently register the same in the name of the 1<sup>st</sup> Defendant.
9. THE plaintiffs are the owners of 1800 acres whereas the Defendants are entitled to 677.5 acres.
10. THAT the plaintiffs were all born and brought up on the farm by their forefathers who are all buried on the farm.
11. THAT in the year 1955, the Defendants particularly the 2nd Defendants approached the plaintiffs as community to surrender a portion from the suit land to be used as a training and vaccination center.
12. THAT on the strength of the promise by the Defendants to establish a institution beneficial to the entire community, the plaintiffs indeed surrendered a portion of the suit land.
13. THAT the plaintiffs were only requested to surrender 677.5 acres and retain possession of 1800 acres.
14. THAT since then, the plaintiffs have been living in abject poverty since they have nowhere to call home because the 1800 acres they were promised have been absolutely taken away by the Defendants.
15. THAT it was not even in the plaintiffs wild imaginations that the Defendants were planning to fraudulently take over all the 2500 of land which is now the case considering the fencing going on now on the farm.



16. THAT the plaintiffs totally depend on the land as grazing fields for their livestock, cultivation, fetching water and shrines among many other essential and crucial activities without which they will be left on the mercies of abject poverty
17. THAT the suit land belonged to the plaintiffs since the days of their forefathers which is why even the colonial Government never settled on the land despite being very fertile.
18. THAT the plaintiffs are now living on the cold others by the roadside and others along the Uasin-Gishu-Elgeyo Marakwet Counties border yet the Defendants continue enjoying possession of the expansive land at their own painful expense.
19. THAT the suit land is now under new management of the Uasin-Gishu County Government after being devolved by the 2<sup>nd</sup> Defendant and it is now evident that the interests of the plaintiffs is now hanging on the slimmest balance.
20. THAT the sole purpose of the Electric fence being erected now around the suit land is none other than to solidify the Defendants illegal grip on the land.
21. THAT the plaintiffs are also aware that the suit land is currently on the final stages of being secretly transferred permanently by the 3<sup>rd</sup> Defendant to the 1<sup>st</sup> Defendant in order to seal the fate of the plaintiffs completely to the dungeons of oblivion and condemn them to live by the roadside forever.
22. THAT original bonifide reasons that caused the plaintiffs to surrender the land to the Defendants were defeated long time ago by the greed of the Defendants given that in the first stages, the Defendants used to consult the plaintiffs on matters touching on the suit land but decided to keep them on the dark on virtually every development including the decision to transfer the suit land from Elgeyo - Marakwet County to Uasin-Gishu County without their knowledge.
23. The plaintiffs claim is thus for orders that the Defendants be permanently restrained from further transferring, trespassing or otherwise interfering with the plaintiff's use and occupation of their land.




24. Demand and Notice of intention to sue have been issued to the Defendants to no avail thereby necessitating this suit.

25. There is no other suit neither have there been any previous proceedings between the parties hereto over the same cause of action.

REASONS WHEREOF the plaintiffs' prays that judgment be entered in their favour against the Defendant for:

- a. An order holding that the plaintiffs are entitled to about 1800 acres located on that parcel of land known as Chebororwa Agricultural Training Center farm by virtue of being ancestral land.
- b. A declaratory order holding that the survey process of Chebororwa Agricultural Training Center Farm was irregular because it failed to address the proprietary interest of the plaintiffs who have lived thereon since time immemorial.
- c. An order for a permanent injunction restraining the Defendants by themselves, their servants, agents and or employees from claiming, fencing the said parcel of land or in any manner interfering with the plaintiff's quiet enjoyment of their entitled 1800 acres within Chebororwa Agricultural Training Farm.
- d. Costs of the suit.
- e. Any other or further orders as this Honourable court shall deem grant.

DATED at ELDORET this 9<sup>th</sup> day of July 2015

  
W. KIGEN & COMPANY

ADVOCATES FOR THE PLAINTIFFS

Drawn & Witnessed by:

W. Kigen & Company Advocates

Watergates Plaza, 1<sup>st</sup> Floor, Room

No. M.13

P.O BOX 874-30100

ELDORET

TO BE SERVED UPON

1. THE BOARD OF GOVERNORS

CHEBORORWA AGRICULTURAL TRAINING CENTRE

P.O BOX 9900

ELDORET

2. THE MINISTRY OF AGRICULTURE

KILIOMO HOUSE

P.O BOX 30021

NAIROBI

3. THE HON. ATTORNEY GENERAL

K.V.D. PLAZA 9<sup>TH</sup> FLOOR

ELDORET



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT ELDORET

CIVIL CASE NO..... OF 2015

KIMITEI ROTICH..... 1<sup>ST</sup> PLAINTIFF

PAUL CHEPKURGAT..... 2<sup>ND</sup> PLAINTIFF

ELIZABETH KIPKEMOI..... 3<sup>RD</sup> PLAINTIFF

VERSUS

CHEBORORWA AGRICULTURAL TRAINING CENTER..... 2<sup>ND</sup> DEFENDANT

MINISTRY OF AGRICULTURE..... 2<sup>ND</sup> DEFENDANT

ATTORNEY GENERAL..... 3<sup>RD</sup> DEFENDANT

RECEIVED  
HIGH COURT OF KENYA  
ENVIRONMENT & LAND  
ELDORET  
P.O. Box 141 ELDORET  
09 JUL 2015

VERIFYING AFFIDAVIT

I, KIMITEI ROTICH ID NO.3534868 OF P.O BOX 137 ELDORET being a male adult of sound mind within the Republic of Kenya do hereby make oath and state as follows:-

1. THAT I am the 1<sup>st</sup> plaintiff herein and therefore competent and duly authorized to make and swear this affidavit.
2. THAT I confirm that to have instructed the firm of M/S W.KIGEN & COMPANY ADVOCATES, WATER GATES PLAZA ROOM M 13, RONALD NGALA STREET, P.O BOX 8784 ELDORET to act this matter on my behalf and file this suit.
3. THAT I have read and understood all the contents of the plaint and hereby verify the correctness of the averments contained therein.
4. THAT there is no other pending suit and there have been no previous proceedings in any court of law over the same subject matter.
5. THAT all that is stated hereinabove is true and correct to the best of my knowledge, information and belief.

SWORN at ELDORET ..... day of ..... 2015

By the said

KIMITEI ROTICH

BEFORE ME  
COMMISSIONER FOR OATHS



Drawn & filed by:

W.Kigen & Company Advocates Watergates Plaza, 1<sup>st</sup> Floor, Room No.M.13, P.O BOX 8784-30100 ELDORET



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT ELDORET

CIVIL CASE NO.....OF 2015

HIGH COURT OF KENYA  
ELDORET  
ENVIRONMENTAL LAND REGISTRY  
09 JUL 2015  
RECEIVED  
P.O. Box 141 ELDORET-30100

KIMITEIROTICH.....1<sup>ST</sup> PLAINTIFF  
PAULO CHEPKURGAT.....2<sup>ND</sup> PLAINTIFF  
ELIZABETH KIPKEMBOI.....3<sup>RD</sup> PLAINTIFF

VERSUS

THE BOARD OF GOVERNORS  
CHEBORORWA AGRICULTURAL TRAINING  
CENTRE.....1<sup>ST</sup> DEFENDANT

THE MINISTRY OF AGRICULTURE.....2<sup>ND</sup> DEFENDANT

THE ATTORNEY GENERAL ON BEHALF OF  
THE COMMISSIONER OF LANDS.....3<sup>RD</sup> DEFENDANT

WRITTEN AUTHORITY

We the undersigned community members ( 1 to 88 ) herein hereby give authority to  
KIMITEIROTICH, PAULO CHEPKURGAT AND ELIZABETH KIPKEMBOI ALL OF  
P.O BOX 9900-30100 ELDORET to swear file this suit on our behalf and swear all the  
necessary and required affidavits in this matter on his own behalf and on our behalf.

DATED at ELDORET this 9<sup>th</sup> day of JULY.....2015

W.KIGEN & COMPANY  
ADVOCATES FOR THE APPLICANTS

Drawn & Filed By:-

W.Kigen & Company Advocates  
Watergates Plaza, 1<sup>st</sup> Floor, Room  
No.M.13,  
P O BOX 1784-30100  
ELDORET





REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT ELDORET

CIVIL SUIT NO. 199 OF 2015

KIMITEI ROTICH, PAUL CHEPKURGAT, ELIZABETH KIPKEMBOI } Plaintiff

against

THE BOARD OF GOVERNORS, CHEBROKORWO AGRICULTURAL TRAINING CENTRE, THE MINISTRY OF AGRICULTURE, THE ATTORNEY GENERAL } Defendant

To THE B.O.G, CHEBROKORWO A.T.C, P.O. BOX 1900, ELDORET

WHEREAS the above-named Plaintiff has instituted a suit against you upon the claim, the particulars of which are set out in the copy plaint with annexure attached hereto.

YOU ARE HEREBY REQUIRED, within 15 days from the date of service hereof to enter an appearance in the said suit.

Should you fail to enter an appearance within the time mentioned above, the Plaintiff may proceed with the suit and judgement may be given in your absence.

Given under my hand and the Seal of the Court this 17th day of July, 2015

Handwritten signature

Note: You may appear in this by entering an appearance either personally or by duly appointed advocate at Appearance can be entered by filing with the Court Memo of Appearance (forms are obtained from Court at 15 cents each) in duplicate, showing the defendant's address for service. A filing fee must accompany such memoranda. A copy of memo of Appearance should also be sent to the plaintiff or his advocate, if any.



**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT ELDORET**  
**CIVIL CASE NO. .... 199 .....**

**HIGH COURT OF KENYA**  
**OF 2013 ELDORET**  
 ENVIRONMENT & LAND REGISTRY  
 P.O. Box 141 ELDORET-30100

**KIMITEI ROTICH.....1<sup>ST</sup> PLAINTIFF/APPLICANT**  
**PAULO CHEPKURGAT.....2<sup>ND</sup> PLAINTIFF/APPLICANT**  
**ELIZABETH KIPKEMBOI.....3<sup>RD</sup> PLAINTIFF/APPLICANT**  
 (Suing on behalf of the Residents of Chebororwa Community)

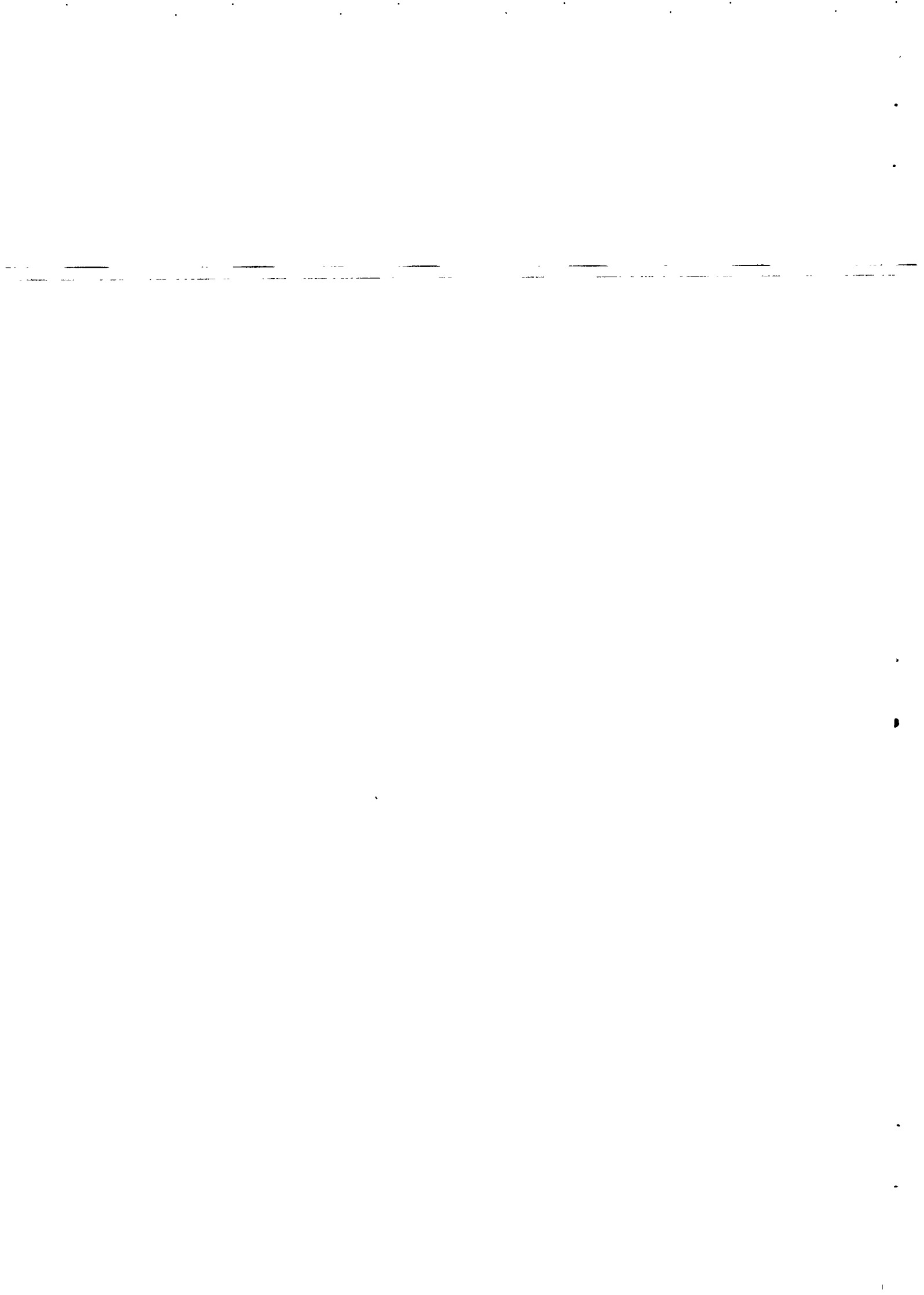
**VERSUS**

**THE BOARD OF GOVERNORS**  
**CHEBORORWA AGRICULTURAL TRAINING**  
**CENTRE.....1<sup>ST</sup> DEFENDANT/RESPONDENT**  
**THE MINISTRY OF AGRICULTURE.....2<sup>ND</sup> DEFENDANT/RESPONDENT**  
**THE ATTORNEY GENERAL on behalf of**  
**THE COMMISSIONER OF LANDS.....3<sup>RD</sup> DEFENDANT/RESPONDENT**

**CERTIFICATE OF URGENCY**

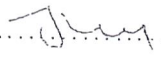
I, **WILSON K. KIGEN OF P.O BOX 8784-30100 ELDORET** being an Advocate of the High Court of Kenya do hereby certify this Application as urgent, the nature of urgency being:-

- a. That the 1<sup>ST</sup> Defendant has encroached on the plaintiff's parcel of land **CHEBORORWA FARM PROVISIONAL NUMBERS V.R 2210 and V.R 3047** and is currently in the process of fencing off and illegally putting up an electric fence around the farm while some families and properties are on the suit land and this may lead to anarchy.
- b. That the land in question was actually communal land before the 1<sup>st</sup> and 2<sup>nd</sup> Defendants approached the plaintiffs to surrender it under a bargain that the plaintiffs would later be given 1800 acres.
- c. THAT the Plaintiff's have been living on the suit land and have been utilizing the same for purposes of planting crops, grazing their livestock, fetching firewood and water among many other crucial necessities without which the plaintiffs and their families will not survive.
- d. THAT the plaintiff's have been relying on the land for purposes of plating crops, grazing their livestock, fetching firewood and water among many other crucial necessities without which the plaintiffs and their families will not survive.



- e. THAT the plaintiff's have been enjoying access to the land since time immemorial but are now on the verge of being chased away.
- f. THAT some members have built their houses on the suit land and even buried their loved ones on the land.
- g. ~~THE land initially belonged to the applicants and other members before the 1<sup>st</sup>~~ plaintiff changed the name to Chebororwo ATC in order to facilitate fraudulent transfer to themselves.
- h. THAT the plaintiff's have been issued with notices ordering them vacate the suit land which is their only home where they live with their entire families
- i. That unless this application is certified urgent and injunction issued restraining the Defendants' from fencing off the land, the applicants stands to suffer irreparable loss since they will not be able to access the land as they have doing and will have no other place to call home..

DATED at ELDORET this 10<sup>th</sup> day of July .....2015

  
W.KIGEN & COMPANY  
ADVOCATES FOR THE APPLICANTS

Drawn & Filed By:-

W.Kigen & Company Advocates  
Watergates Plaza, 1<sup>st</sup> Floor, Room  
No.M 13,  
P.O BOX 8784-30100  
ELDORET



REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT ELDORET  
CIVIL CASE NO. 194 OF 2015

HIGH COURT OF KENYA  
ELDORET  
ENVIRONMENT & LAND REGISTRY  
JUL 20 2015  
RECEIVED  
P.O. BOX 141 ELDORET-30100

KIMITEI ROTICH..... 1<sup>ST</sup> PLAINTIFF/APPLICANT  
PAULO CHEPKURGAT..... 2<sup>ND</sup> PLAINTIFF/APPLICANT  
ELIZABETH KIPKEMOI ..... 3<sup>RD</sup> PLAINTIFF/APPLICANT  
(Suing on behalf of the Residents of Chebororwo Community)

VERSUS

THE BOARD OF GOVERNORS  
CHEBORORWO AGRICULTURAL TRAINING  
CENTRE..... 1<sup>ST</sup> DEFENDANT/RESPONDENT  
THE MINISTRY OF AGRICULTURE..... 2<sup>ND</sup> DEFENDANT/RESPONDENT  
THE ATTORNEY GENERAL on behalf of  
THE COMMISSINER OF LANDS..... 3<sup>RD</sup> DEFENDANT/RESPONDENT

NOTICE OF MOTION

Under Sections 3A and 63 of the Civil Procedure Act, Orders 1 Rule 8 and 40  
Rule 1 of the Civil Procedure Rules, Laws of Kenya

TAKE NOTICE that this Honourable court shall be moved on the 27<sup>th</sup> day  
of October 2015 at 9.00 O'clock in the forenoon or soon thereafter as

Counsel may be heard on the hearing of an application by the Plaintiff for ORDERS:-

1. THAT service herein be dispensed with in the first instance.
2. THAT leave be granted to the various Plaintiffs herein to institute a suit on behalf of all the other residents of Cebororwo Community.
3. THAT the Honourable court be pleased to grant a temporary injunction restraining the Defendants, their agents and/or servants from unlawfully fencing off and/or, causing damage, carrying out acts of waste, hindering the Plaintiffs' quiet enjoyment of and/or alienating the suit land No. CHEBORORWO AGRICULTURAL TRAINING CENTRE FARM VR 2210 and VR 3047 pending the inter partes hearing of this application.



4. THAT the Honourable court be pleased to grant a permanent injunction restraining the Defendants, their agents and/or servants from fencing off and/or, causing damage, carrying out acts of waste, hindering the Plaintiffs' quiet enjoyment of and/or alienating the suit land No.CHEBORORWO AGRICULTURAL TRAINING CENTRE FARM VR 2210 and VR 3047 until the determination of this suit.
5. THAT the Plaintiffs be at liberty to apply for any further or other orders and directions as may to this Honourable Court deems fit and just in the circumstances.
6. THAT the costs of this application be provided for.

ON THE GROUNDS THAT:-

- a) THE residents of the area have unanimously agreed to have the Plaintiffs herein who sit in the Committee of the Chebororwo community bring this suit on behalf of the various residents therein.
- b) THAT the 1<sup>st</sup> Respondent is currently fencing off the suit land with a view of denying the applicants access.
- c) THAT the suit land is community land and has been so since time immemorial.
- d) THAT the Respondents are in the process of transferring the suit land to the 1<sup>st</sup> Respondent without any color of right.
- e) THE Plaintiffs/Applicants' will suffer irreparable loss and damage if the Defendants /Respondents continue putting up an electric fence around the suit land.



- f) THE Plaintiffs/Applicants' right of quite and peaceful enjoyment if the suit land is being denied.
- g) THAT the Applicants have prima file case with high chances of success
- h) THAT the balance of conveniences lies in favour of granting the orders sought to stop the acts of illegality being committed further against the applicants.
- i) THAT it is in the interest of justice and fairness that the plaintiff's absolute proprietary as the lawful owners of the suit parcels of land be preserved by this honourable court.
- j) THAT the application has been bought in good faith and without undue delay.

AND supported by the annexed affidavit of KIMITEI ROTICH and other grounds to be adduced at the hearing hereof.

DATED at ELDORET this 14<sup>th</sup> day of July 2015.

W. KIGEN & COMPANY  
ADVOCATES FOR THE PLAINTIFFS/APPLICANTS

Drawn & Filed By;

W. Kigen & Company Advocates  
Water Gate Plaza, 1<sup>st</sup> Floor RM 13  
P.O. BOX 8784 -30100

ELDORET

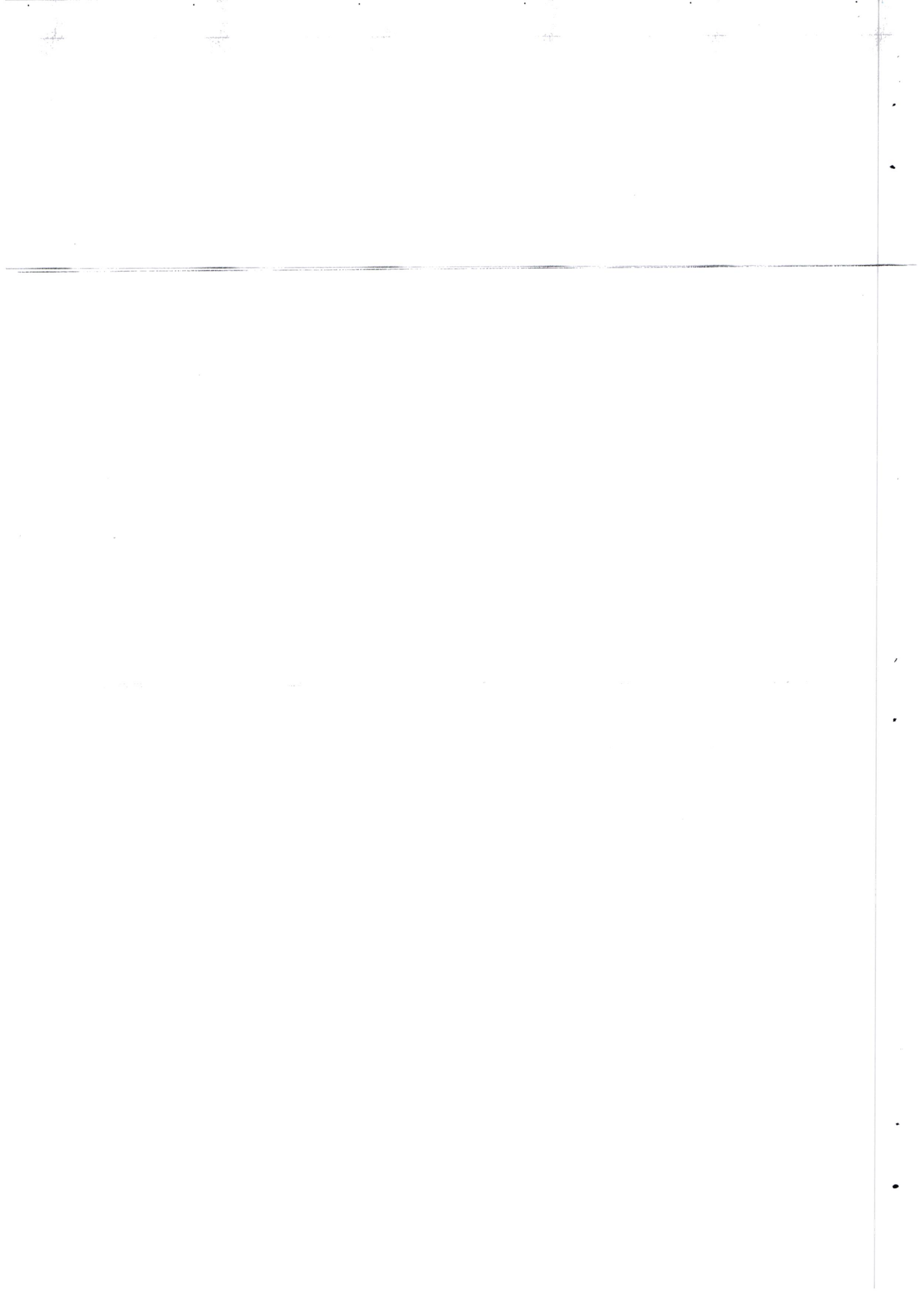
TO BE SERVED UPON

1. The Board of Governors  
Chebororwo Farmers Training Centre  
P.O. BOX  
ELDORET

3. The Hon. Attorney General  
K.V.D.A PLAZA 9<sup>th</sup> Floor  
ELDORET

2. The Ministry of Agriculture  
Kilimo House  
P.O BOX 30021  
NAIROBI

NOTE if any party served does not appear at the time and place above mentioned, such orders will be issued and proceedings taken as the court may think just and expedient.



REPUBLIC OF KENYA

IN THE ENVIROMENT AND LAND COURT AT ELDORET

CIVIL CASE NO. 199 OF 2015

KIMITEI ROTICH.....1<sup>ST</sup> PLAINTIFF/APPLICANT  
PAULO CHEPKURGAT.....2<sup>ND</sup> PLAINTIFF/APPLICANT  
ELIZABETH KIPKEMBOI.....3<sup>RD</sup> PLAINTIFF/APPLICANT

VERSUS

THE BOARD OF GOVERNORS  
CHEBORORWA AGRICULTURAL TRAINING  
CENTRE.....1<sup>ST</sup> DEFENDANT/RESPONDENT.

THE MINISTRY OF AGRICULTURE.....2<sup>ND</sup> DEFEDNANT/RESPONDENT

THE ATTORNEY GENERAL on behalf of  
THE COMMISSINER OF LANDS.....3<sup>RD</sup> DEFEDNANT/RESPONDENT

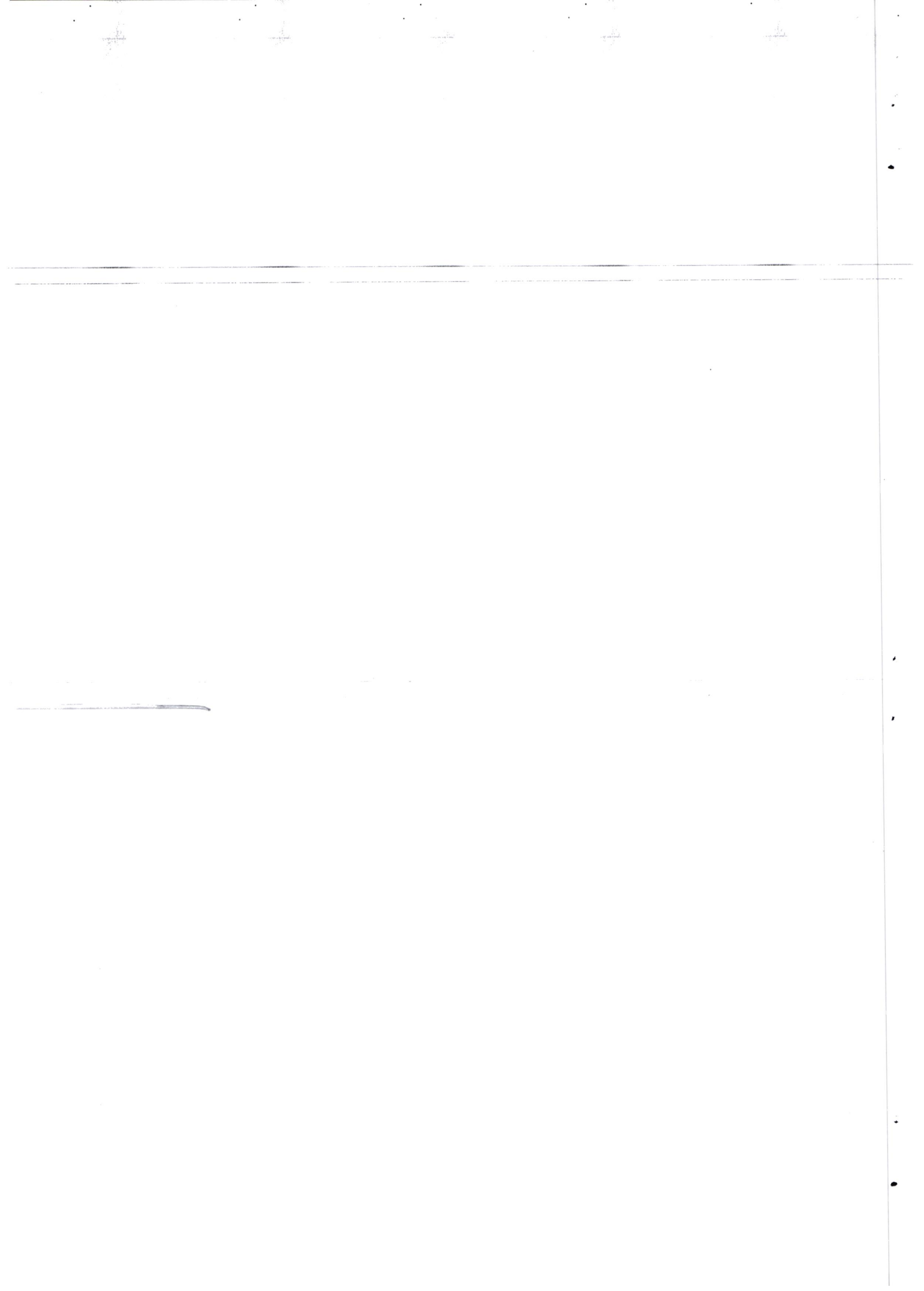
SUPPORTING AFFIDAVIT

I, KIMITEIROTICH OF P.O BOX 371 ELDORET within the Republic of Kenya do hereby make oath as follows:

1. THAT I am a male adult of sound mind, the deponent herein and has the authority on my behalf and on behalf of the 1<sup>st</sup> and 2<sup>nd</sup> Plaintiff's and the other 88 Chebororwo community members to swear this affidavit
2. THAT I am one of the members of Chebororwo community having lived and occupied the suit since I was born.
3. THAT I and the other members of the community have been living peacefully on the suit land from time immemorial.
4. That we have been using the suit land as a grazing area, cultivation, fetching water, firewood and also utilized the same as our shrines.
5. That the whole Chebororwo ATC farm measures 2,500 Acres and we are entitled to 1,800 Acres whereas the respondents are entitled to 677.5 Acres. (See annexure marked KR1 being correspondence from the Ministry of Agriculture)
6. Sometime in June 2015, the 1<sup>st</sup> Respondent entered the suit land and is in the process of constructing electric fence around the whole 2,500 acres farm without our consent. (See annexure marked KR2 being the fence under construction)



7. That if the said electric fence is allowed to be constructed, the whole community will be prevented from entering therein and this will result to a great loss since they will not be able to access their farms and their livestock will have nowhere to graze.
8. The construction of electric fence will greatly inconvenience the community and yet they were not even involved in the decision fence the property.
9. There was no environmental impact assessment done before constructing the said electric fence
10. That sometimes way back in the year 1955 or thereabouts, the Ministry of Agriculture requested the local community to give them land to be used as a vaccination ground for livestock.
11. That the land initially belonged to all members before the 1<sup>st</sup> Defendant encroached and changed the name to Chebororwo Agricultural Training centre farm in order to facilitate fraudulent transfer of the suit land.
12. THAT following a series of meetings with the whole community, the management of ATC, the Ministry of Agriculture and the local administration, it was agreed that the suit land be sub-divided between us and the ATC as recommended by the ministry of Agriculture (See annexure marked KR 3)
13. Sometimes in June 2015, the 1<sup>st</sup> Respondent entered the suit land and is in the process of constructing electric fence around the whole 2,500 acres farm without our consent. (See annexure marked KR4)
14. That I pray that the Respondent be ordered to stop the construction of electric fence pending the hearing of the main suit.
15. Some members have built their houses on the suit land and even buried their loved ones on the suit land.
16. The Respondents illegally and unlawfully surveyed the suit land without the knowledge of the applicants ( see annexure marked KR5 )
17. THAT the Respondents are also in the process of transferring to the 1<sup>st</sup> Respondent.
18. THAT the Respondents entered land actually on a genuine bargain to establish an Agricultural Training Center on 677.5 acres but has now decided to fraudulently take all the 2500 acres.



19. THAT the suit land is very critical to our well being and if the same is taken away from us, we will be total destitutes.

20. THAT there is need that the prevailing status quo be maintained in order to preserve our interests.

21. THAT it is peculiarly in the best interest of justice that the preservatory orders be given to protect our interest.

22. THAT I swear this affidavit in solemn confirmation of our application now before this Honourable court.

23. THAT what is deponed to herein above is true to the best of my knowledge, information and belief.

Dated at Eldoret this 10th day of July 2015

SWORN BY THE SAID

KIMITEI ROTICH

JOSEPH KIPLAGAT KIPKURUMBA  
ADVOCATE &  
BEFORE ME JOSEPH KIPLAGAT KIPKURUMBA  
P. O. BOX 8787-30100  
ELDORET

} .....  
Deponent

COMMISSIONER FOR OATHS

Drawn & Filed By:-

W.Kigen & Company Advocates

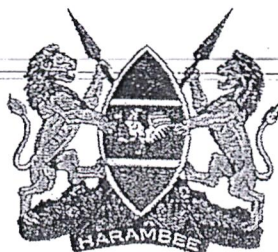
Watergates Plaza, 1<sup>st</sup> Floor, Room

P.O BOX 8787-30100

ELDORET



**REPUBLIC OF KENYA**



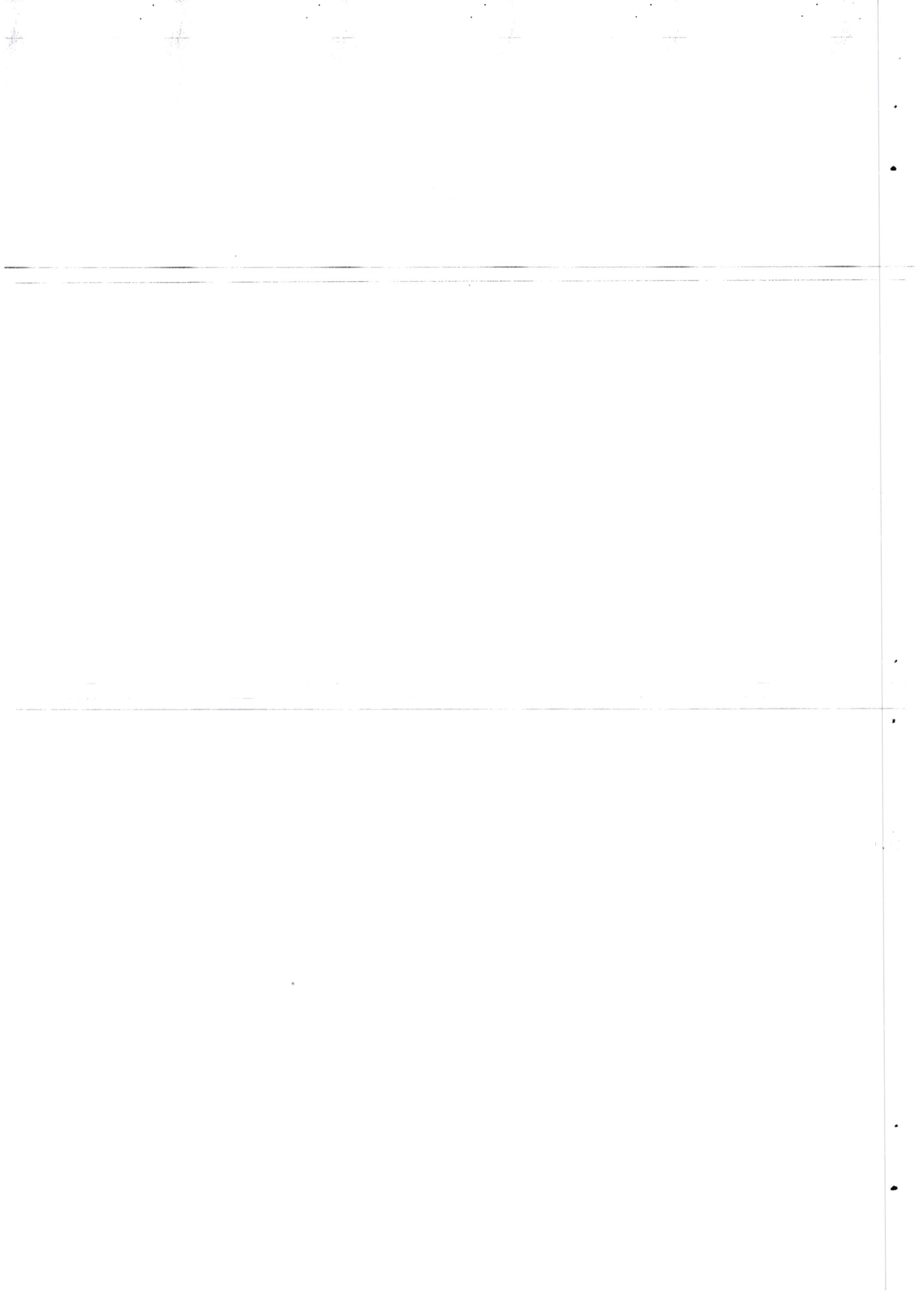
**MINISTRY OF AGRICULTURE, LIVESTOCK  
AND FISHERIES**

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**REPORT TO THE NATIONAL ASSEMBLY DEPARTMENTAL ON  
LANDS REGARDING FURTHER INFORMATION ON LAND  
NGONG/NGONG/1959, ALLEGED COMPULSORY ACQUISITION OF  
LAND, LR NO 10029/2 ALSO KNOWN AS SHEEP AND GOAT AND  
CHEBORORWA AGRICULTURAL TRAINING CENTRE  
PRESENTED ON 1<sup>ST</sup> DECEMBER, 2015  
BY AG. CABINET SECRETARY  
ADAN MOHAMED, CBS**

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*DECEMBER, 2015*



K

The Ministry is still using the land for sheep and goats multiplication and conservation. KMC intends use the land as a holding ground.

**Conclusion:**

The Ministry prays that:

- i. Investigation into the irregular allocation of the 250 acres to **Afya Sacco** and **NLC** to cancel the titles;
- ii. The Ministry to be allowed to continue with its mandate on the said land;
- iii. **KMC** to proceed utilizing the farm as a holding.

**QUESTION 3**

**REPORT TO THE NATIONAL ASSEMBLY DEPARTMENTAL ON LANDS REGARDING CHEBORORWA AGRICULTURAL TRAINING CENTRE**

**Background Information on Chebororwa Agricultural Training Centre**

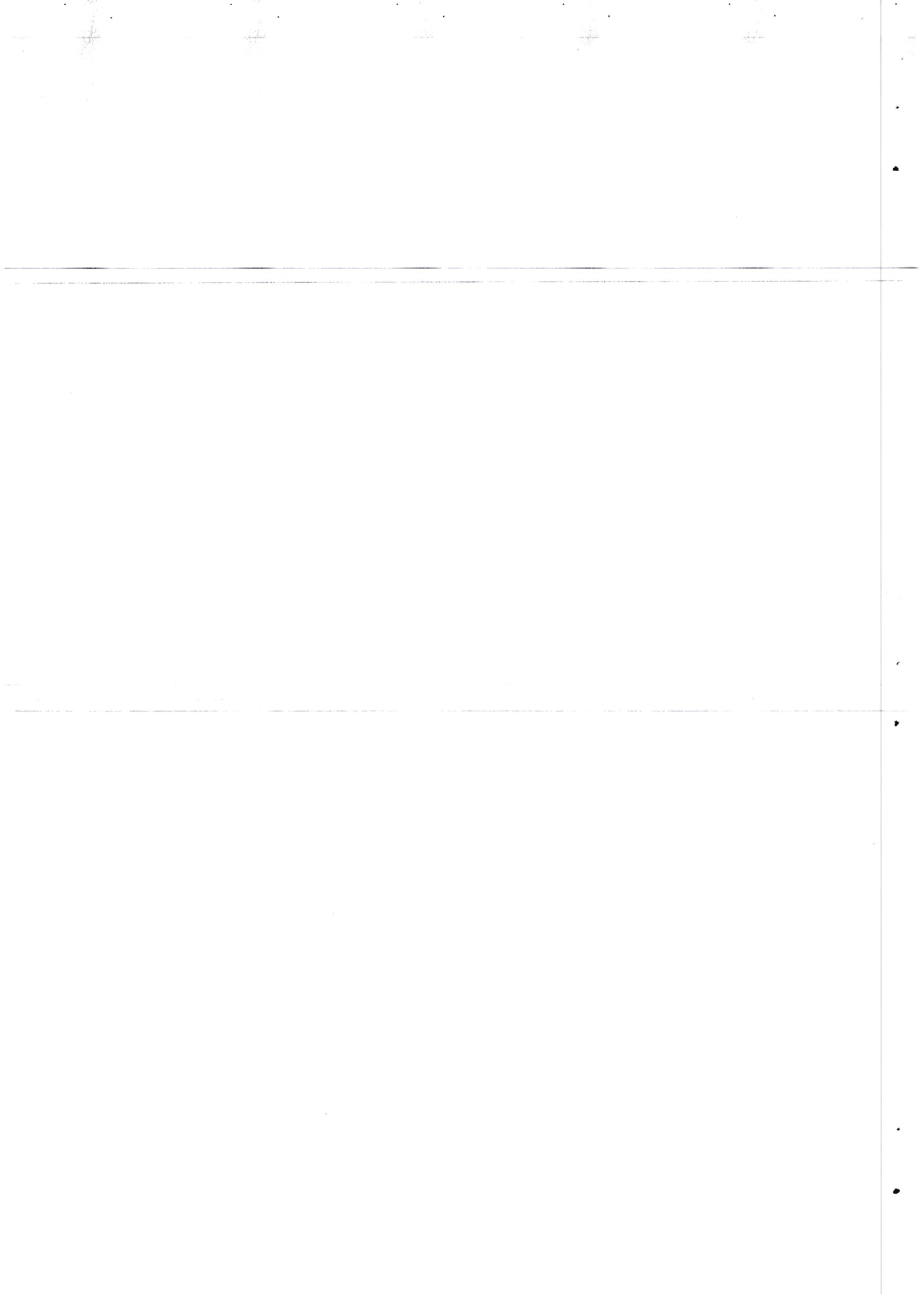
The centre was established in 1957 as a Livestock Improvement Centre (LIC) under the Veterinary Department.

In 1959 it was turned into a Farmers Training Centre (FTC) and renamed Agricultural Training Centre (ATC) in 2006.

**1) Mandate/Purpose The Land Was Set Aside**

The land was set aside by Government for the following purposes:

- i) To offer residential and non-residential training on relevant farming technologies backed with practical demonstrations for the



surrounding catchment area of five counties (Uasin-Gishu, West Pokot, ElgeyoMarakwet, Trans-Nzoia and Turkana

- ii) To provide training facilities to farmers and other stakeholders ~~involved in agriculture and national development;~~
- iii) To maintain a model farm for training purposes and for demonstrations to stakeholders in agriculture
- iv) To provide facilities for and participate in carrying out regional adaptive on-farm trials of relevant agricultural technologies;
- v) To serve as bulking centre of plant materials and multiplication of livestock for farmers (provision of seeds and breeding stock);

## 2) Acreage In Use By Chebororwa Agricultural Training Centre

- The total area was initially **estimated** at **2,500 acres (1000 ha)**.
- However when the actual survey was done, the actual area was found to be as follows:

LR No. Moiben/Meibeki 2210	-	1232 acres
LR No. Moiben/Meibeki 3047	-	1229 acres
Public Roads	-	15 acres

**Total - 2476 acres**

### Land utilization

The land utilization is as follows:

1.	Area for seed crops	330 acres
2.	Natural pasture land	300 acres
3.	Other crops/demonstrations	20 acres



4.	Guard rows/marshy land	167 acres
5.	Rocky and mountainous	1450 acres
6.	Rocky and shallow soils	178 acres
7.	Farm roads	16 acres
8.	Public Roads	15 acres
	<b>Total</b>	<b>2,476 acres</b>

### Management of the Institution

Before devolution in 2013, Chebara ATC was established to serve Elgeyo/ Marakwet. This left the institution to serve four (4) counties under the administration of the Board of Governors drawn from the following counties and host Ward.

1.	UasinGishu	1
2.	Trans Nzoia	1
3.	West Pokot	1
4.	Turkana	1
5.	Chebororwa Ward	1
<b>Total</b>		<b>5</b>

### 3) Approvals by the Ministry to Hive 1,800 Acres for Settlement of Squatters, who had been evicted and issued with allocation letter.

The ministry has no records to support the above allegation. However, there is already a civil suit filed at Eldoret Environmental and Land Court, Case NO.199 of 2015 (copy attached) by;



PAILO CHEPKURGAT  
ELIZABETH KIPKEMBOI

**Versus**

BOARD OF GOVERNORS  
CHEBORORWA AGRICULTURAL TRAINING CENTRE,  
MINISTRY OF AGRICULTURE,  
ATTORNEY GENERAL

**4) Ownership documents of the Land**


The ministry has no title deeds of the above said parcels of land, however:

- The two parcels of land were described in Kenya (Designated Land) Regulation under the Legal Notice No. 751 of 1<sup>st</sup> June 1963.
- Land survey was done in 2011 by the then Elgeyo/Marakwet District Surveyor (Kapsowar).

In conclusion, the Agricultural Training Centres and their functions were devolved to their respective **County Governments** vide Kenya Gazette Supplement **No.116 of 9<sup>th</sup> August 2013** and actualized on **28<sup>th</sup> February 2014** vide Kenya Gazette Supplement No 30, Legal Notice No. **33 of 17<sup>th</sup> March 2014** (copies attached).

(i) Kenya Gazette Supplement No. 116, Legal Notice No.137

(ii) Kenya Gazette Supplement No. 30, Legal Notice No. 33

Signed .....  ..... Date ..... **30/11/2015** .....

