

Approved for tabling in the House.

PARLIAMENT OF KENYA



THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – FIFTH SESSION – 2021


DEPARTMENTAL COMMITTEE ON LANDS

REPORT ON-

1. **PUBLIC PETITION NO. 45 OF 2020** BY RESIDENTS OF GARSEN CONSTITUENCY IN TANA RIVER COUNTY REGARDING SUBDIVISION OF AGRICULTURAL DEVELOPMENT CORPORATION (ADC) LAND AND STAKEHOLDER CONSULTATION ON THE GALANA – KULALU FOOD SECURITY PROJECT
2. **PUBLIC PETITION NO. 031 OF 2021** RESIDENTS OF GARSEN CONSTITUENCY IN TANA RIVER COUNTY REGARDING DEGAZETTEMET OF SPECIFIED ADC LAND IN GARSEN CONSTITUENCY

DIRECTORATE OF DEPARTMENTAL COMMITTEES  
CLERK'S CHAMBERS  
PARLIAMENT BUILDINGS  
NAIROBI

DECEMBER 2021

 <b>THE NATIONAL ASSEMBLY PAPERS LAID</b>	
DATE: 02 DEC 2021	
DAY: Thursday PM	
TABLED BY:	Chairperson Lands Committee
CLERK-AT THE-TABLE:	B. Irzogu

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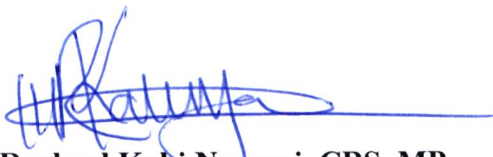
## **CHAIRPERSON'S FOREWORD**

Public Petition No. 45 of 2021 by residents of Garsen in Tana River County regarding subdivision of Agricultural Development Corporation (ADC) land and stakeholder consultation on the Galana – Kulalu Food Security Project was presented to the House through Hon. Ali Wario Guyo, MP on 26<sup>th</sup> November 2020. Hon. Ali Wario Guyo, MP conveyed the second Petition No. 031 of 2021 regarding degazettement of specified ADC land in Garsen Constituency to the House on behalf of the same Petitioners on 10<sup>th</sup> August 2021.

The Committee in its Sitting held 17<sup>th</sup> August 2021 noted that the two Petitions were on the issue of subdivision of ADC land in Garsen and allocation of a portion of the said land to residents of Garsen Constituency. Further the second Petition is related to the first one as it seeks degazettement and increment of 250,000 acres reportedly earmarked for a community ranch for residents of Garsen Constituency to 600,000 acres. In this regard the Committee resolved to consider the two Petitions concurrently and to respond to the prayers through a joint report as guided by the Speaker of the National Assembly on 10<sup>th</sup> August 2021.

In considering the Petitions, the Committee held a meeting with the Petitioners on Wednesday, 17<sup>th</sup> March, 2021 and met Hon Ali Wario, MP on Thursday 2<sup>nd</sup> September 2021 to consider the second Petition. The Committee also held meetings with the Chief Administrative Secretary Ministry of Lands and Physical Planning on 21<sup>st</sup> April 2021 and received written submissions from the Ministry regarding Petition No. 031 of 2021 dated 17<sup>th</sup> November 2021. The Committee also met the Chairperson Agricultural Development Corporation on 4<sup>th</sup> May 2021 and held a meeting with the Chief Administrative Secretary, Ministry of Agriculture, Livestock & Fisheries together with the Managing Director, Agricultural Development Cooperation. Lastly the Committee received written submissions from the Chairperson National Land Commission on 5<sup>th</sup> August 2021 and 7<sup>th</sup> October 2021, respectively.

On behalf of the Committee and pursuant to Standing Order 227, it is my pleasant duty to table the joint Report of the Departmental Committee on Land on its consideration of Public Petition No. 45 of 2020 by Hon Ali Wario, MP on behalf of residents of Garsen in Tana River County regarding subdivision of Agricultural Development Corporation (ADC) land and stakeholder consultation on the Galana and Public Petition No. 031 of 2021 regarding degazettement of specified ADC land in Garsen Constituency by the same Petitioners .



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

## EXECUTIVE SUMMARY

The purpose of this report is to respond to prayers made in Public Petition No. 45 of 2020 by residents of Garsen in Tana River County regarding subdivision of Agricultural Development Corporation (ADC) land and stakeholder consultation on the Galana and Public Petition No. 031 of 2021 regarding degazettement of specified ADC land in Garsen Constituency.

In Public Petition No. 45 of 2020, the Petitioners made the following prayers, that the National Assembly through the Departmental Committee on Lands:

- i. Inquire into the circumstances under which the proposed 250 000 acres Community Ranch scheme as per existing survey map was amended to 200, 000 acres;
- ii. Recommend that the 5,000 beneficiaries under the Community Ranch scheme be increased to a number proportionate to the affected citizens and that priority be accorded to locals who have been directly affected by the project;
- iii. Ensure that public participation is undertaken as per the Constitution and provisions of the Agricultural Development Corporation (Special Farms) Rules; and
- iv. Make any other appropriate recommendation it deems fit in addressing the circumstances raised in the Petition.

In the second Petition No. 031 of 2021 the Petitioners prayed that the National Assembly through the Departmental Committee on Lands:

- i. Inquire into the circumstances under which the proposed 250 000 acres Community Ranch scheme as per existing survey map was amended to 200, 000 acres;
- ii. Recommend that the 5,000 beneficiaries under the Community Ranch scheme be increased to a number proportionate to the affected citizens and that priority be accorded to locals who have been directly affected by the project;
- iii. Ensure that public participation is undertaken as per the Constitution and provisions of the Agricultural Development Corporation (Special Farms) Rules; and
- iv. Make any other appropriate recommendation it deems fit in addressing the circumstances raised in the Petition.

The Committee determined the issues raised by the Petitioners in the two Petitions as follows: -

- a) **Inquire into the circumstances under which the proposed 250 000 acres Community Ranch scheme as per existing survey map was amended to 200, 000 acres:**

The Committee observed that:

- i. Galana and Kulalu Ranches are registered under two separate titles. The First Title is Grant No. 44891 measuring 99.164 Ha in Kilifi County while the second parcel is in Tana River County being Galana Ranch with an acreage of 706,206 Hectares.
- ii. The Ministry of Lands and Physical Planning was undertaking planning and survey work in the Kulalu portion of the ADC Ranch (LR No. 14248 (Kilifi County). Which was at the technical stages. Therefore, no evidence of the survey of Galana ADC Ranch in River County by the Ministry was available to the Committee.
- iii. The Cabinet Secretary, Ministry of Lands and Physical Planning submitted that the allegations made by the Petitioners that an allocation of 250,000 acres of land for a Community Ranch in Galana Ranch was reduced by the Ministry officials to 200,000 acres were inaccurate as no planning and settlement of beneficiaries had been conducted by the government on the said land.
- iv. However, the Chief Administrative Secretary, Ministry of Agriculture, livestock and Fisheries and the Managing Director, ADC confirmed that the ADC had identified the 250, 000 acres of land and the Petitioners were currently in occupation of the said land.

The Committee concluded that there was no evidence of the proposed 250 000 acres Community Ranch scheme being amended to 200, 000 acres

**b) Recommend that the 5,000 beneficiaries under the Community Ranch scheme be increased to a number proportionate to the affected citizens and that priority be accorded to locals who have been directly affected by the project:**

The Committee observed that the relevant government agencies need to, through public participation, establish and determine whether there are other affected persons/beneficiaries in addition to the 5,000 beneficiaries, which have been affected by the project for purposes of settlement in the Community Ranch Scheme.

**c) Ensure that public participation is undertaken as per the Constitution and provisions of the Agricultural Development Corporation (Special Farms) Rules.**

The Committee observed that:

- i. The Principal Secretary, State Department of Water, Sanitation & Irrigation confirmed that although consultative meetings with the local leaders at the

grassroots had been planned, the meetings were not held due to Covid -19 restrictions on gatherings. He further submitted that the National Development Implementation Technical Committee charged with the implementation of the Galana Kulalu Food Security Project intended to undertake a full public participation and stakeholder engagement once the Covid -19 measures permit;

- ii. Further the Committee did not receive any evidence indicating that the Ministry of Lands and Physical Planning undertook public participation regarding the subdivision of both Galana and Kulalu Ranches. Indeed, the Cabinet Secretary submitted that the Ministry would undertake public participation in the subsequent phases of the project upon completion of the ongoing planning and survey process; and
- iii. Additionally, the Chairperson, National Land Commission and the Managing Director Agricultural Development Corporation averred that the Commission and the corporation did not participate in the planned sub – division of the Galana and Kulalu Ranches in Kilifi and Tana River Counties to facilitate the establishment of food security project in the area by the National Government through the National Development Implementation Committee.

In this regard the Committee concluded that the Ministry of Lands and Physical Planning did not undertake public participation prior to the implementation of the proposed subdivision of the Galana and Kulalu Ranches in Kilifi and Tana River Counties to facilitate the establishment of food security project in the area by the National Government through the National Development Implementation Committee.

The Committee further concluded that there is a need for the Ministry of Lands and Physical Planning to conduct public participation prior to the implementation of the proposed subdivision of the Galana and Kulalu Ranches in accordance with the requirements of Article 10 of the Constitution.

On the second Petition under the Prayers that the Committee:

- a) **Intervenes to facilitate timely degazettement of the said land to convert it to community land for grazing and related communal use by residents of Assa and Kone Locations in Garsen Constituency as well as degazettement of the River Galana Watering Corridor on both sides of the Tsavo East National Park and the ADC land.**

The Committee noted that:

- i. Section 2 of the Agricultural Development Corporation (ADC) (Special Farms) Rules provide that no special farm shall be sold, subdivided

transferred or otherwise disposed without the prior approval by way of a Bill or Motion to be approved by Parliament;

- ii. It further provides that any sale, subdivision, transfer, or disposal of any special farm made in contravention of this rule shall be null and void, and no instrument relating to such transaction shall be registered under any written law for the time being in force requiring the registration of such instrument;
- iii. Additionally, pursuant to Sections 16(2), 17(1) and 34(1) of the Land Act, the National Land Commission should give consent for any subdivision of leasehold land subject to continuing interests, shall vary the conditions for leasing and shall give consent for disposal of the land;
- iv. The evidence submitted by the Chairperson, National Land Commission and the Managing Director, ADC indicated that the National Development Implementation Committee which is coordinated by the Ministry of Water did not consult the Agriculture Development Corporation and the National Land Commission.
- v. Moreover, the implementing Committee also did not obtain the necessary approval of Parliament regarding the subdivision of the two Ranches in accordance with the requirements of rule 2(2) of the Agricultural Development Corporation (Special Farms Rules) 2001.
- vi. Pursuant to the Schedule of Special Farms Rules 2001, Galana and Kulalu Ranches in Kilifi and Tana River Counties are ranches and are bound by the Agricultural Development Corporation Special Farms Rules 2001. Therefore, any subdivision and planned disposal of the Galana and Kulalu Ranches in Kilifi and Tana River Counties were to take place, this should be in line with the stipulated guidelines from the Agricultural Development Corporation Act (Cap 444) and the Agricultural Development Corporation Special Farms Rules 2001.
- vii. The Chief Administrative Secretary, Ministry of Agriculture, Livestock and Fisheries and the Managing Director, Agricultural Development Corporation (ADC) informed the Committee that part of the ADC Galana Ranch was irregularly subdivided without the involvement of the corporation and adherence to the ADC Special Farms Rules 2001 leading to land buying companies encroaching into the ADC land and duping unsuspecting members of the public into buying the ADC land without legitimate documentations.
- viii. The said irregular subdivisions were the subject of investigations by the Ethics and Anti-Corruption Commission.

- ix. There is need for the Agricultural Development Corporation and the Cabinet Secretary, Ministry of Tourism and Wildlife to ensure access to the River Galana Watering Corridor on both sides of the Tsavo East National Park and the ADC land by the residents of Assa and Kone locations in Garsen.

The Committee concluded that the requisite approval by Parliament and consultations with the Agriculture Development Corporation, the National Land Commission to facilitate the subdivision of the planned sub – division of the Galana and Kulalu Ranches in Kilifi and Tana River Counties to facilitate the establishment of food security project have not been obtained.

Therefore, the prayer seeking the Committee to intervene to facilitate timely degazettement of the said land to convert it to community land for grazing and related communal use by residents of Assa and Kone Locations in Garsen Constituency may be considered by the House through a Bill or Motion upon request by the relevant government agencies seeking to subdivide, transfer or otherwise dispose of the land in accordance with Section 2 of the Agricultural Development Corporation (ADC) (Special Farms) Rules which provides that no special farm shall be sold, subdivided transferred or otherwise disposed without the prior approval by way of a Bill or Motion to be approved by Parliament;

- b) **Intervenes to facilitate the increment of the Galana Community Group Ranch from the proposed 250,000 acres to 600, 000 acres, and to guarantee that at least 25% of beneficiaries in all land block categories are residents from the communities in Garsen Constituency:**

The Committee noted that:

- i. The submissions made to the Committee by the Chief Administrative Secretary Ministry of Agriculture, Livestock and Fisheries and the Managing Director, Agricultural Development Corporation (ADC) indicated that the Ministry and the Corporation is aware that two Presidential Proclamations made in 2006 and 2013 directed those 250,000 acres of ADC land in Garsen be allocated to the local community. However, the two directives need to be implemented in accordance with the ADC Special Farms Rules 2001 including obtaining the necessary approval by Parliament;
- ii. Any proposal to increase land earmarked for the residents Assa and Kone Locations in Garsen Constituency should be presented to the relevant government agencies through a public participation exercise as provided for in the Constitution.

In this regard the Committee concluded that the prayer seeking the increment of the Galana Community Group Ranch from the proposed 250,000 acres to 600,000 acres, and to guarantee that at least 25% of beneficiaries in all land block categories are local residents from the communities in Garsen Constituency should be considered together with any

allocation to other stakeholders through a public participation exercise without compromising the objectives of the establishment of the two ADC special farms as provided for in the ADC Act and the ADC Special Farms Rules 2001.

In response to the prayers by the Petitioners, the Committee recommends that the Cabinet Secretary Ministry of Lands & Physical Planning undertakes public participation prior to the subdivision or disposal of the Galana and Kulalu Ranches in Kilifi and Tana River Counties in accordance with the Agricultural Development Corporation Act (Cap 444) and the Agricultural Development Corporation Special Farms Rules 2001 within ninety days of tabling of this report.

The Committee also recommends that the Cabinet Secretary Ministry of Lands & Physical Planning does submit a request seeking approval by Parliament to secure the 250,000 acres that had already been allocated to the Petitioners by the Agricultural Development Corporation in accordance with the Agricultural Development Corporation Act (Cap 444) and the Agricultural Development Corporation Special Farms Rules 2001 within ninety days of tabling of this report.

The Committee further recommends that the Cabinet Secretary Ministry of Lands & Physical Planning considers the request by the Petitioners to increase the allocation of land for the community to 600, 000 acres during a public participation exercise prior to any subdivision and take into among other factors the community of interest, historical, economic, and cultural ties within ninety days of tabling of this report.

Additionally, the Committee recommends that the Agricultural Development Corporation and the Cabinet Secretary, Ministry of Tourism and Wildlife does ensure access to the River Galana Watering Corridor on both sides of the Tsavo East National Park and the ADC land by the residents of Assa and Kone locations in Garsen within ninety days of tabling of this report.

Finally, the Committee recommends that the Ethics and Anti-Corruption Commission does fast track the conclusion of the investigations on the alleged irregular sub-divisions of the Galana and Kulalu ADC Ranches in Kilifi and Tana River Counties.

## **1.0 PREFACE**

### **1.1 Mandate of the Committee**

2. The Departmental Committee on Lands was 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 or a Minister.
- (vi) study and review all legislation referred to it.

## **1.2 Committee subjects**

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

## **1.3 Oversight**

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

## 1.4 Committee Membership

5. The Committee membership comprises:

### **Chairperson**

Hon. Dr. Rachael Nyamai, CBS, MP  
**Kitui South Constituency**  
**Jubilee Party**

### **Vice Chairperson**

Hon. Khatib Mwashetani, MP  
**MP for Lunga Lunga Constituency**  
**Jubilee Party**

Hon. Benjamin Washiali, CBS, MP  
Mumias East Constituency  
**Jubilee Party**

Hon Joshua Kutuny Serem, MP  
Cherangany Constituency  
**Jubilee Party**

Hon. Mishi Mboko, MP  
Likoni Constituency  
**Orange Democratic Movement (ODM)**

Hon. Omar Mwinyi, MP  
Changamwe Constituency  
**Orange Democratic Movement (ODM)**

Hon. Ahmed Kolosh, MP  
Wajir West Constituency  
**Jubilee Party**

Hon. Ali Mbogo, MP  
Kisauni Constituency  
**Wiper Democratic Movement (WDM)**

Hon. Babu Owino, MP  
Embakasi East Constituency  
**Orange Democratic Movement (ODM)**

Hon. Caleb Kipkemei Kositany, MP  
Soy Constituency  
**Jubilee Party**

Hon George Aladwa, MP  
Makadara Constituency  
**Orange Democratic Movement (ODM)**

Hon George Risa Sunkuyia, MP  
Kajiado West Constituency  
**Jubilee Party**

Hon. John Muchiri Nyaga, MP  
Manyatta Constituency  
**Jubilee Party**

Hon. Josphat Gichunge Kabeabea, MP  
Tigania East Constituency  
**Party of National Unity (PNU)**

Hon. Lilian Tomitom, MP  
West Pokot County  
**Jubilee Party**

Hon. Owen Yaa Baya, MP  
Kilifi North Constituency  
**Orange Democratic Movement (ODM)**

Hon. Patrick Munene Ntwiga, MP  
Chuka/Igambangombe Constituency  
**Jubilee Party**

Hon. Samuel Kinuthia Gachobe, MP  
Subukia Constituency  
**Jubilee Party**

Hon. Teddy Mwambire, MP  
Ganze Constituency  
**Orange Democratic Movement (ODM)**

## 1.5 Committee Secretariat

6. The Committee secretariat comprises: -

**Lead Clerk**

Mr. Leonard Machira

**Senior Clerk Assistant**

Mr. Ahmad Guliye

**Second Clerk Assistant**

Dr. Kefa Omoti

**Principal Researcher**

Ms. Jemimah Waigwa

**Legal Counsel I**

Mr. Adan Abdi

**Fiscal Analyst II**

Mr. Joseph Okongo

**Media Relations Officer**

## 2.0 INTRODUCTION

7. Public Petition No. 45 of 2020 by residents of Garsen in Tana River County regarding subdivision of Agricultural Development Corporation (ADC) land and stakeholder consultation on the Galana – Kulalu Food Security Project was presented to the House through Hon. Ali Wario Guyo, MP on 26<sup>th</sup> November, 2020. Hon. Ali Wario Guyo, MP conveyed to the second Petition No. 031 of 2021 regarding degazettement of specified ADC land in Garsen Constituency to House on behalf of the same Petitioners 4<sup>th</sup> August 2021.
8. The Committee in its Sitting held on 17<sup>th</sup> August 2021 it was noted that the two Petitions were on subdivision and allocation of part of ADC land in Garsen to residents of Garsen Constituency. Further the second the Petition was related to the first one as it sought degazettement and increment of 250,000 acres reportedly earmarked for a community ranch for residents of Garsen Constituency to 600,000 acres. In this regard the Committee resolved to consider the two Petitions concurrently and to respond to the prayers through a joint report as guided by the Speaker of the National Assembly on 10<sup>th</sup> August 2021.
9. In Public Petition No. 45 of 2020, the Petitioners stated the Ministry of Water, Sanitation and Irrigation is implementing a food security project in Galana and Kulalu government owned ranches, covering 1.7 million acres of land in Tana River and Kilifi Counties.
10. The Petitioners also stated that the government through a Cabinet memorandum proposed measures on the implementation of the Galana Kulalu Food Security Project such as land settlement, termination of all existing leases on the ADC land, development of road infrastructure, provision of power connection and upstream pollution and catchment area conservation, protection and management.
11. The Petitioners claimed that the Ministry of Lands and Physical Planning embarked on planning and surveying of the area for resettlement of host communities and subdivision of the land for commercial leasing for crops and livestock enterprises.

12. According to the Petitioners a total of 30,000 families will be settled and allocated 10-acre plots on a lease basis and a 200,000 acres community Ranch scheme will also be established.
13. The Petitioners observed that Section 2 of the Agricultural Development Corporation (ADC) (Special Farms) Rules provide that no special farm shall be sold, subdivided, transferred or otherwise disposed without prior approval by way of a Bill or Motion to be approved by Parliament.
14. The Petitioners further stated that the Ministry of Water, Sanitation and Irrigation wrote to the Regional Commissioner, Coast Region regarding stakeholder consultations that were scheduled for 9<sup>th</sup> to 11<sup>th</sup> November 2020 in the affected counties and requested the Commissioner to sensitize the local communities on the interventions to be carried out to complete the project, especially the plans for settlement of the local communities in the project area.
15. However, the consultations did not take place as communicated and no further communication was made on the matter by the Ministry of Water, Sanitation and Irrigation.
16. Efforts made by the Petitioners to have the matter addressed have not been successful.
17. The Petitioners also confirmed that the matters raised in the petition are not pending before any court of law, Constitutional or any other legal body.
18. The Petitioners prayed that the National Assembly through the Departmental Committee on Lands;
  - i. Inquire into the circumstances under which the proposed 250,000 acres Community Ranch scheme as per existing survey map was amended to 200,000 acres;
  - ii. Recommend that the 5,000 beneficiaries under the Community Ranch scheme be increased to a number proportionate to the affected citizens and that priority be accorded to locals who have been directly affected by the project;
  - iii. Ensure that public participation is undertaken as per the Constitution and provisions of the Agricultural Development Corporation (Special Farms) Rules; and,
  - iv. Make any other appropriate recommendation it deems fit in addressing the circumstances raised in the Petition.
19. In the second Petition, No. 031 of 2021 the Petitioners stated that Galana Ranching Scheme spans over 1.75 million acres. The ranch was established in 1968 as a game and trading company. The Government through the Agricultural Development Corporation

later acquired it to provide a buffer zone between Tsavo National Park and surrounding communities, to undertake beef ranching, off take management during drought as well as for production of biogas.

20. The Petitioners stated that H.E. President Mwai Kibaki in 2006 and H.E. President Uhuru Kenyatta in 2013 directed the Agricultural Development Corporation to release 250,000 acres to residents of Assa and Kone locations near Tsavo East National Park. The two Heads of State also required the corporation to grant the residents access to the River Galana Watering Corridor to water their livestock.
21. The Petitioners further stated that Galana Ranch was earmarked for subdivision into small scale 100-acre blocks totaling 200,000 acres, 10- acre blocks totaling to 300,000 acres categorized as settlement schemes, 10,9999 - acre blocks totaling to 4000,000 acres categorized as large scale, 5000-acre blocks totaling 200,000 acres categorized as medium scale and 1000-acre blocks totaling 200, 0000 acres categorized as medium scale two.
22. The Petitioners were of the view that the proposed subdivisions will adversely affect the entire community which depends on land to graze the substantial number of livestock that includes herds of cattle, sheep goats and camel thereby creating potential for protracted conflicts in future due to inadequate size of grazing land particularly since the land in question is currently occupied by the community, with the ADC occupying less than 10% the entire acreage.
23. The Petitioners observed that the 250,000 acres earmarked for the community is extremely inadequate and ought to be increased to a minimum of 600,000 acres in view of the current demand for grazing land.
24. The Petitioners efforts to have the proposed subdivisions revised by the relevant authorities have not yielded any fruit.
25. The Petitioners confirmed that the issues in respect of which the petition is made are not pending before any court of law, or other constitutional or legal body.
26. The petitioners prayed that the National Assembly through the Departmental Committee on Lands:
  - i. Intervenes to facilitate timely degazettement of the said land to convert it to community land for grazing and related communal use by residents of Assa and Kone Locations in Garsen Constituency as well as degazettement of the River Galana Watering Corridor on both sides of the Tsavo East National Park and the ADC land;

- ii. Intervenes to facilitate the increment of the Galana Community Group Ranch from the proposed 250,000 acres to 600, 000 acres, and to guarantee that at least 25% of beneficiaries in all land block categories are residents from the communities in Garsen Constituency; and,
- iii. Makes any further orders deemed fit in the circumstances of the Petition.

### **3.0 SUBMISSIONS**

#### **3.1 Submissions by the Petitioners**

27. In the consideration of Public Petition No. 45 of 2020 the Committee met Hon. Ali Wario Guyo, MP and representatives of the Petitioners on Wednesday, 17<sup>th</sup> March, 2021.
28. During the meeting they informed the Committee that the Ministry of Water, Sanitation & Irrigation did not undertake public participation in respect of the subdivision of Galana – Kulalu ADC land contrary to a communication made by the Ministry through the Regional Commissioner, Coast Region.
29. The Petitioners further stated that the Ministry of Lands and Physical Planning did not consider the interest of the residents in Tana – River County during the subdivision and allocation of ADC Galana Farm. In this regard the residents stand to lose community grazing land hence rendering the local population destitute.
30. They also alleged that the proposed 250,000 acres Community Ranch scheme as per existing survey map was irregularly amended to 200,000 acres.
31. The Petitioners observed that Section 2 of the ADC (special farms rules) was not adhered to during the subdivision. The rules provide that “no special farm shall be sold, subdivided, transferred or otherwise disposed of without the prior approval by way of a Bill or Motion to be approved by Parliament.
32. They also requested that the Ministry of Lands & Physical Planning should consider the plight of the local community and accord them priority during the subdivision and allocation of the ADC farmland in Tana-River County.
33. The Committee held a second meeting with Hon Ali Wario Guyo, MP on Thursday 2<sup>nd</sup> September 2021 to consider the second Petition, No. of 031 of 2021. During the meeting, the Member informed the committee that the second Petition sought the degazettement of part of Galana ADC land as provided for in the Section 2 of the ADC (special farms rules) and to increase the allocation of land for the Community Ranch from 250,000 to 600,000 acres.
34. The basis of the request for an increment of the acreage was due to increased population in the area and the need for additional land to facilitate livestock rearing by the expansion of grazing areas.
35. The Member also stated that the Petition sought the intervention of the Committee to facilitate the degazettement of the River Galana Watering Corridor on both sides of the Tsavo East National Park and the ADC land to ensure access to watering points by the residents of Garsen.

36. Hon. Ali Wario Guyo, MP also stated that 330,000 acres of land in Galana ADC Ranch had been irregularly allocated to several companies and the said firms have obtained leases for the said parcels.
37. The Member requested that 25% of all parcels of land in Galana Ranch earmarked for subdivision in categorized blocks ranging from small scale medium scale to large scale be allocated to residents of Garsen.

### **3.2 Submissions by the Ministry of Lands and Physical Planning**

38. The Committee met the Chief Administrative Secretary, Ministry of Lands and Physical Planning on 21<sup>st</sup> April 2021. He informed the Committee that:
39. Galana and Kulalu ranches are registered under two separate titles. The First Title is Grant No. 44891 measuring 99.164 Ha (245,044.16 acres) in Kilifi County, while the second parcel, Galana Ranch, with an acreage of 706,206 Ha. (1,500,061.5 acres) is in Tana River County.
40. The Ministry was undertaking Planning and survey work in the Kulalu portion of the ADC Ranch (LR No. 14248 (Kilifi County) and not in the Galana portion (Tana River County). The said planning and survey were still at the technical stages comprising land analyses and initial ground truthing.
41. The allegations made by the Petitioners that subdivision has been conducted on the Galana Ranch are inaccurate as no planning and settlement of beneficiaries has been conducted by the government on the said land. The same applies to the claims of the local Communities being allocated 250,000 acres.
42. The subject land is not a community ranch but owned by Agricultural Development Corporation (ADC) which is a State Corporation. Therefore, there is no provision for 5,000 beneficiaries under the Community Ranch as the land belongs to the National Government and any position of the settlement of beneficiaries will emanate from the government upon completion of the planning and survey exercise.
43. The Chief Administrative Secretary also stated that the Ministry would conduct public participation in the subsequent phases of the project upon completion of the ongoing planning and survey process.
44. On the issuance of obtaining approval of the National Assembly in accordance with Section 2 of ADC (Special Farm Rules), the Chief Administrative Secretary stated that the ministry would obtain the approval before the registration of the sub – division on the two ranches.

45. The Committee also received written submissions from the Cabinet Secretary, Ministry of Lands and Physical Planning dated 17<sup>th</sup> November 2021 regarding the second petition. The Cabinet Secretary stated as follows:
46. On the issue of degazettement of the Galana Ranch and subsequent change to community land the Cabinet Secretary clarified that the Galana Kulalu Food Security project is government project targeted at achieving agricultural reforms to promote best practice for achievement of food and nutritional security and that the communities to be settle on the land upon completion of planning and survey process will require various facilities, infrastructure, and services.
47. In this regard a spatial development framework and comprehensive infrastructural provision is crucial for the development of the Galana Ranch. Therefore, the Government is best suited to guide these developmental processes while maintaining ownership of the land.
48. The Cabinet Secretary stated that the Garsen community would be engaged during a stakeholder participation exercise where community interests needs, and welfare would be considered.

### **3.3 Submissions by the Ministry of Agriculture and Livestock and Agricultural Development Corporation (ADC)**

49. The Committee met the Chairperson Agricultural Development Corporation (ADC) on 11<sup>th</sup> May 2021. The Chairperson made submissions as follows:
50. Agricultural Development Corporation (ADC) is the registered landowner of Galana Ranch Block 1/1 in Tana River County measuring 1,500,000 acres and Kulalu Ranch LR 14248(Kilifi County) measuring 239,487 acres.
51. The Government in 2013 identified Galana and Kulalu Ranches for the establishment of a food security project (GK FSP) This led to a lease agreement between the Agricultural Development Corporation and the then National Irrigation Board (NIB) under which the latter paid for the leased for the Food Security Project.
52. The Chairperson Agricultural Development Corporation stated that the attention of the corporation was drawn to sentiments made by the Principal Secretary for Water, Sanitation and to the effect that the government wanted to dispose the ADC land in Galana and Kulalu through several ways including allotting the land to squatters.

53. The Corporation also received a letter Ref MLPP /ADM 120/11 (20) dated 12<sup>th</sup> November 2020 from the Ministry of Lands and Physical Planning requesting the Corporation to allow surveyors from the Ministry to conduct preliminary physical planning activities in the quest to implement the Galana Kulalu Food Security Project as directed by the Cabinet. However, the Corporation is not aware of the said Cabinet directive nor been involved in any consultative meeting.
54. Consequently, the Corporation through its Lands, Legal and Partnerships Committee undertook a site visit of the two ranches on 26<sup>th</sup> February 2021 to ascertain the alleged invasion and subdivision of the two ranches. The team found out that:
- i. By January 2021 301,000 acres of Galana Ranch had been subdivided.
  - ii. Access roads had been opened to service the subdivided portions.
  - iii. An individual had excavated a dam on Galana land.
  - iv. On Kulalu Ranch the team observed that subdivision had started on the land as evidenced by fresh beacons and cutlines on the ground.
  - v. The technical team also observed that the beacons and cutlines were meant for physical planning of the area even though the ADC Board had not approved any physical planning exercise on the land and Parliamentary approval as specified in Rule 2 (2) of the Agricultural Development Corporation (Special Rules, 2001 (Rev 2012) were not obtained.
55. The Chairperson stated that the invasion and sub - division of land in both Galana and Kulalu Ranches was irregular on the following grounds:
- i. The Corporation was not involved in any proposed subdivision of the Galana and Kulalu ranches despite holding the land in trust of the Government.
  - ii. The land in question is still subject to rights and obligations including lease agreements which ought to be considered before the subdivision of the land.
  - iii. It offends the provisions of Rule 2 (2) of the Agricultural Development Corporation (Special Farms Rules, 2001 (Rev 2012) as neither the Board nor Parliament had approved the alienation and subdivision.
56. The Chairperson submitted a letter containing resolutions of a Special Board Meeting held 26<sup>th</sup> November, 2020. The Board outlined the steps which the corporation or the government need to follow in the allocation of land in any of the gazetted special farms:
- i. A board resolution indicating the need and the reason to sell or allocate the land
  - ii. The said board resolution should be communication with the line Ministry and Treasury for concurrence

- iii. ADC should also seek authority from National Land Commission for concurrence
- iv. A board resolution and authority from the national land Commission is submitted to the National Assembly for debate and direction

57. The Committee also met the Chief Administrative Secretary, Ministry of Agriculture, Livestock, Fisheries & Cooperatives together with the Managing Director, Agricultural Development Corporation on Tuesday 28<sup>th</sup> September 2021. The two officials responded to the issues raised in Public Petition No. 031 of 2021 as follows, that:

58. The Agricultural Development Corporation owns Galana and Kulalu Ranches measuring 1.74 million acres. The corporation acquired the ranches in 1969. The ranches are under livestock rearing and game ranching as well as serving as a buffer zone between the Tsavo East National Park and neighbouring communities.

59. Regarding the Prayer by the petitioners seeking the degazettement of 600,000 acres of Galana Ranch. The Chief Administrative Secretary stated that both the Ministry of Agriculture, Livestock, Fisheries & Cooperatives and Agricultural Development Corporation are aware that two Presidential Proclamations made in 2006 and 2013 directed those 250,000 acres of ADC land in Garsen be allocated to the local community. However, the two directives needed to be implemented in line with the ADC Special Farms Rules 2001 and no follow-up had been made to obtain the necessary approval by Parliament prior to the presentation of the Petition.

- a. The Chief Administrative Secretary further stated that the proclamations were made verbally but were later communicated formally through letters from the Office of the President, through the Head of Public Service.
- b. The Committee directed the Chief Administrative Secretary to submit to the Committee copies of the said letters directing ADC to effect the Presidential Proclamations of allocating 250,000 acres of ADC land in Garsen to the local community in the area.
- c. The Chief Administrative Secretary and the Managing Director also confirmed that the ADC had identified the 250, 000 acres of land in two instances with the petitioners rejecting the first site they were allocated but later accepted the second site and were currently in occupation of the said land and had also informally demarcated the land. However, the beneficiaries were not issued ownership documents as Parliamentary approval had not been obtained.
- d. The Ministry and the Corporation were also willing to conclude the process of degazetting the said 250,000 acres as provided for in the ADC Special Farms Rules.

- e. Regarding the request to degazette an additional 350,000 acre to besides the 250,000 acres promised through the two presidential directives to comprise a total of 600, 000 acres of land to benefit the residents Assa and Kone locations. The officials stated that the Committee needed to consider the statutory mandate of ADC in farming as a public enterprise and whether the said increment would compromise food security in considering the prayer to increase the land earmarked for degazettement to 600, 000 acres.
- f. On irregularly subdivision of ADC Galana land, the Chief Administrative Secretary and the Managing Director ADC stated that part of the ADC Galana Ranch was subdivided without the involvement of the corporation and adherence to the ADC Special Farms Rules 2001 leading to land buying companies encroached into the ADC land and duping unsuspecting members of the public into buying the ADC land without legitimate documentations.
- g. The Chief Administrative Secretary further stated that the irregular subdivision violated the ADC Special Farms Rules and the issue was under investigation by the Ethics and Anti – Corruption Commission.
- h. The two officials disputed the assertion made by the Petitioners that ADC occupies less than 10% of the entire Galana Ranch and observed that the said ranch is government land utilized as provided for in the ADC act and that ADC was only a custodian of the ranch.

### **3.4 Submissions by the Chairperson National Land Commission**

- 60. The Committee received written submissions from the National Land Commission dated 19<sup>th</sup> July 2021. The Commission responded to the issues raised in Public Petition No. 45 of 2020 by residents of Garsen in Tana River County regarding subdivision of Agricultural Development Corporation (ADC) land and stakeholder consultation on the Galana – Kulalu Food Security Project.
- 61. On the issue of public participation, the Chairperson stated that the Commission did not participate in any manner in the planned sub – division of the Galana and Kulalu Ranches in Kilifi and Tana River Counties to facilitate the establishment of food security project in the area by the National Government through the National Development Implementation Committee.
- 62. The National Land Commission was not aware of any planned disposal of the land currently held by the Agricultural Development Corporation (ADC) in Galana and Kulalu and whether the Agricultural Development Corporation Act (Cap 444) and the

Agricultural Development Corporation Special Farms Rules 2001 were followed during the subdivision of the ranches.

63. Pursuant to the Schedule of Special Farms Rules 2001, Galana and Kulalu Ranches in Kilifi and Tana River Counties are special farms bound by the Agricultural 4 Development Corporation Special Farms Rules 2001. Therefore, any sub – division and disposal of the ranches shall be in line with the stipulated guidelines from the Agricultural Development Corporation Act (Cap 444) and the Agricultural Development Corporation Special Farms Rules 2001.
64. Statutory conditions for sub – division and disposal of the ranches by virtue of ADC Act Cap 444 are:
  - i. No special farm shall be sold, subdivided, transferred, or otherwise disposed of without the prior approval by way of a Bill of Motion to be approved by Parliament.
  - ii. Any sale, subdivision, transfer, or disposal of any special farm made in contravention of this rule shall be null and void, and no instrument relating to such transaction shall be registered under any written law for the time being in force requiring the registration of such instrument.
65. The role of the National Land Commission in the protection of public land held by the Agricultural Development Corporation is in:
  - a. the identification of that public land, preparation and keeping a database on the same, which shall be geo-referenced and authenticated by the statutory body responsible for survey in accordance with Section 8(1)(a) of the Land Act, 2012.
  - b. the evaluation of all parcels of public land based on land capability classification, land resources mapping consideration, overall potential for use, and resource evaluation data for land use planning in accordance with Section 8(1)(b) of the Land Act, 2012.
  - c. requiring that land to be used for specified purposes and subject to such conditions, covenants, encumbrances, or reservations as are specified in the relevant order or other instrument. Special Conditions on titles includes that the land shall be used for Agriculture, conservation and tourism purposes, the grantee shall not subdivide the land without prior consent in writing of the County Government, the grantee shall not sell, transfer, sublet, charge or subdivide the land or any part thereof without prior written consent of the County Government, National Land Commission or Land Control Board and the county government, Director of Agriculture or any person duly authorized by them shall have the right to enter the land to ascertain the proper usage of the land.

- d. prescribing guidelines for the management of public land by all public agencies, statutory bodies and state corporations in actual occupation or use of public land in accordance with Section 10(1) of the Land Act, 2012.
  - e. identifying ecologically sensitive areas that are within public lands and demarcating or taking any other justified action on those areas and act to prevent environmental degradation and climate change in accordance with Section 11(2) of the Land Act, 2012.
  - f. ensuring that investments in the land benefit local communities and their economies in accordance with Section 12(4) of the Land Act, 2012.
  - g. protection of public land that has been reserved by the National Land Commission by ensuring that the land shall only be used for the purpose set out by the National Land Commission in the order designating the reservation in accordance with Section 15(2) of the Land Act, 2012.
  - h. by ensuring the management body submits to the Commission for approval a plan for the development, management and use of the reserved public land vested in the management body in accordance with Section 17 of the Land Act, 2012.
  - i. revocation and management order in case the management body does not comply with stipulated guidelines and where the Commission considers it in the public interest.
66. Pursuant of Sections 16(2), 17(1) and 34(1) of the Land Act the National Land Commission should give consent for any subdivision of leasehold land subject to continuing interests, shall vary the conditions for leasing and shall give consent for disposal of the land.

### **3.5 Submissions by the Principal Secretary, State Department of Water, Sanitation & Irrigation**

67. The Committee met the Principal Secretary, State Department of Water, Sanitation & Irrigation on 3<sup>rd</sup> August 2021. He informed the Committee that:
68. The Government through a joint Cabinet Memoranda proposed the implementation of Galana – Kulalu Food Security Project to ensure full utilization of the 1.75-million-acre ranch.
69. A consultative meeting comprising of the relevant Cabinet Secretaries of the implementing Ministries together with the Governors of Tana – River and Kilifi Counties was held on 28<sup>th</sup> September, 2020.

70. This was followed by consultative meetings to brief the Leadership of Tana River & Kilifi Counties on the proposed interventions on 9<sup>th</sup> and 13<sup>th</sup> October, 2020, respectively.
71. Although consultative meetings with the local leaders at the grassroots were scheduled for 9<sup>th</sup> to 11<sup>th</sup> November 2021, the meetings could not take place due to Covid -19 restrictions on gatherings.
72. The National Development Implementation Technical Committee (a Committee of Principal Secretaries) assigned the Principal Secretary, State Department of Water the task of coordinating the activities.
73. The Cabinet memoranda outlining the activities to be carried out in Galana – Kulalu Food Security Project was signed by the Cabinet Secretaries of the implementing Ministries including the Cabinet Secretaries of the Ministry of Agriculture, Livestock, Fisheries & Cooperatives, and the Ministry of Lands & Physical Planning.
74. The project is at a planning stage and no activities are ongoing at the ground currently.
75. The National Development Implementation Technical Committee intends to undertake full public participation and stakeholder engagement once the Covid 19 measures permit.
76. The National Development Implementation Technical Committee intends to follow the laid down procedures such as seeking approval from Parliament as the project is currently at a planning stage.

#### **4.0 ISSUES FOR DETERMINATION AS PER THE PRAYERS**

- a) **Inquire into the circumstances under which the proposed 250,000 acres Community Ranch scheme as per existing survey map was amended to 200, 000 acres:**

The Committee observed that:

- i. Galana and Kulalu Ranches are registered under two separate titles. The first Title is Grant No. 44891 measuring 99.164 Ha in Kilifi County while the second parcel is in Tana River County being Galana Ranch with an acreage of 706,206 Hectares.
- ii. The Ministry of Lands and Physical Planning was undertaking planning and survey work in the Kulalu portion of the ADC Ranch (LR No. 14248 (Kilifi County). Which was at the technical stages. Therefore, no evidence of the survey of Galana ADC Ranch in Tana (?) River County by the Ministry was available to the Committee.
- iii. The Cabinet Secretary, Ministry of Lands and Physical Planning submitted that the allegations made by the Petitioners that an allocation of 250,000 acres of land for a Community Ranch in Galana Ranch was reduced by the Ministry officials to 200,000 acres were inaccurate as no planning and settlement of beneficiaries had been conducted by the government on the said land.
- iv. However, the Chief Administrative Secretary, Ministry of Agriculture, livestock and Fisheries and the Managing Director, ADC confirmed that the ADC had identified the 250, 000 acres of land and the Petitioners were currently in occupation of the said land.

The Committee concluded that there was no evidence of the proposed 250,000 acres Community Ranch scheme being amended to 200,000 acres

- b) **Recommend that the 5,000 beneficiaries under the Community Ranch scheme be increased to a number proportionate to the affected citizens and that priority be accorded to locals who have been directly affected by the project:**

The Committee observed that the relevant government agencies need to, through public participation, establish and determine whether there are other affected persons/beneficiaries in addition to the 5,000 beneficiaries, which have been affected by the project for purposes of settlement in the Community Ranch Scheme.

- c) **Ensure that public participation is undertaken as per the Constitution and provisions of the Agricultural Development Corporation (Special Farms) Rules.**

The Committee observed that:

- i. The Principal Secretary, State Department of Water, Sanitation & Irrigation confirmed that although consultative meetings with the local leaders at the grassroots were planned, the meetings were not held due to Covid -19 restrictions on gatherings. He further submitted that the National Development Implementation Technical Committee charged with the implementation of the Galana Kulalu Food Security Project intended to undertake a full public participation and stakeholder engagement once the Covid -19 measures permit
- ii. Further the Committee did not receive any evidence indicating that the Ministry of Lands and Physical Planning undertook public participation regarding the subdivision of both Galana and Kulalu Ranches. Indeed, the Cabinet Secretary submitted that the Ministry would undertake public participation in the subsequent phases of the project upon completion of the ongoing planning and survey process
- iii. Additionally, the Chairperson, National Land Commission and the Managing Director Agricultural Development Corporation averred that the Commission and the corporation were not consulted and did not participate in the planned sub – division of the Galana and Kulalu Ranches in Kilifi and Tana River Counties to facilitate the establishment of food security project in the area by the National Government through the National Development Implementation Committee.

In this regard the Committee concluded that the Ministry of Lands and Physical Planning did not conduct public participation prior to the implementation of the proposed subdivision of the Galana and Kulalu Ranches in Kilifi and Tana River Counties to facilitate the establishment of food security project in the area by the National Government through the National Development Implementation Committee.

The Committee further concluded that there is need for the Ministry of Lands and Physical Planning to conduct public participation prior to the implementation of the proposed subdivision of the Galana and Kulalu Ranches in accordance with the requirements of Article 10 of the Constitution.

On the second Petition under the Prayers that the Committee:

- d) Intervenes to facilitate timely degazettement of the said land to convert it to community land for grazing and related communal use by residents of Assa and Kone Locations in Garsen Constituency as well as degazettement of the River Galana Watering Corridor on both sides of the Tsavo East National Park and the ADC land.**

The Committee noted that:

- i. Section 2 of the Agricultural Development Corporation (ADC) (Special Farms) Rules provide that no special farm shall be sold, subdivided transferred or otherwise disposed off without the prior approval by way of a Bill or Motion to be approved by Parliament;
- ii. It further provides that any sale, subdivision, transfer, or disposal of any special farm made in contravention of this rule shall be null and void, and no instrument relating to such transaction shall be registered under any written law for the time being in force requiring the registration of such instrument;
- iii. Additionally, pursuant of Sections 16(2), 17(1) and 34(1) of the Land Act the National Land Commission should give consent for any subdivision of leasehold land subject to continuing interests, shall vary the conditions for leasing and shall give consent for disposal of the land;
- iv. The evidence submitted by the Chairperson, National Land Commission and the Managing Director, ADC indicated that the National Development Implementation Committee which is coordinated by the Ministry of Water did not consult the Agriculture Development Corporation and the National Land Commission.
- v. Moreover, the implementing Committee also did not obtain the necessary approval of Parliament regarding the subdivision of the two Ranches in accordance with the requirements of rule 2(2) of the Agricultural Development Corporation (Special Farms Rules) 2001;
- vi. Pursuant to the Schedule of Special Farms Rules 2001, Galana and Kulalu Ranches in Kilifi and Tana River Counties are ranches and are bound by the Agricultural Development Corporation Special Farms Rules 2001. Therefore, any subdivision and planned disposal of the Galana and Kulalu Ranches in Kilifi and Tana River Counties were to take place, this should be in line with the stipulated guidelines from the Agricultural Development Corporation Act (Cap 444) and the Agricultural Development Corporation Special Farms Rules 2001;
- vii. The Chief Administrative Secretary, Ministry of Agriculture Livestock & Fisheries and the Managing Director, ADC informed the Committee that part of the ADC Galana Ranch had been irregularly subdivided without the involvement of the corporation and adherence to the ADC Special Farms Rules 2001 leading to land buying companies encroached into the ADC land and duping unsuspecting members of the public into buying the ADC land without legitimate documentations;

- viii. The said irregular subdivisions were the subject of investigations by the Ethics and Anti-Corruption Commission; and,
- ix. There is need for the Agricultural Development Corporation and the Cabinet Secretary, Ministry of Tourism and Wildlife to ensure access to the River Galana Watering Corridor on both sides of the Tsavo East National Park and the ADC land by the residents of Assa and Kone locations in Garsen.

The Committee concluded that the requisite approval by Parliament and consultations with the Agriculture Development Corporation, the National Land Commission to facilitate the subdivision of the planned sub – division of the Galana and Kulalu Ranches in Kilifi and Tana River Counties to facilitate the establishment of food security project have not been obtained.

Therefore, the prayer seeking the Committee to intervene to facilitate timely degazettement of the said land to convert it to community land for grazing and related communal use by residents of Assa and Kone Locations in Garsen Constituency may be considered by the House through a Bill or Motion upon request by the relevant government agencies seeking to subdivide, transfer or otherwise dispose of the land in accordance with Section 2 of the Agricultural Development Corporation (ADC) (Special Farms) Rules which provides that no special farm shall be sold, subdivided transferred or otherwise disposed off without the prior approval by way of a Bill or Motion to be approved by Parliament;

- e) **Intervenes to facilitate the increment of the Galana Community Group Ranch from the proposed 250,000 acres to 600, 000 acres, and to guarantee that at least 25% of beneficiaries in all land block categories are residents from the communities in Garsen Constituency:**

The Committee noted that:

- i. The submissions made to the Committee by the Chief Administrative Secretary Ministry of Agriculture, Livestock & Fisheries and the Managing Director Agricultural indicated that the Ministry and the Corporation is aware that two Presidential Proclamations made in 2006 and 2013 directed those 250,000 acres of ADC land in Garsen be allocated to the local community. However, the two directives need to be implemented in accordance with the ADC Special Farms Rules 2001 including obtaining the necessary approval by Parliament.
- ii. Any proposal to increase land earmarked for the residents of Assa and Kone Locations in Garsen Constituency should be presented to the relevant government agencies though a public participation exercise as provided for in the Constitution.

In this regard the Committee concluded that the prayer seeking the increment of the Galana Community Group Ranch from the proposed 250,000 acres to 600,000 acres, and to guarantee that at least 25% of beneficiaries in all land block categories are local residents from the communities in Garsen Constituency should be considered together with any allocation to other stakeholders through a public participation exercise without compromising the objectives of the establishment of the two ADC special farms as provided for in the ADC Act and the ADC Special Farms Rules 2001.

## 5.0 COMMITTEE RECOMMENDATIONS

In response to the prayers by the Petitioners, the Committee recommends, that:

1. The Cabinet Secretary Ministry of Lands & Physical Planning undertakes public participation regarding the subdivision or disposal of the Galana and Kulalu Ranches in Kilifi and Tana River Counties in accordance with the Agricultural Development Corporation Act (Cap 444) and the Agricultural Development Corporation Special Farms Rules 2001 within ninety days of tabling of this report.
2. The Cabinet Secretary Ministry of Lands & Physical Planning does submit a request seeking approval by Parliament to secure the 250,000 acres that had already been allocated to the Petitioners by the Agricultural Development Corporation in accordance with the Agricultural Development Corporation Act (Cap 444) and the Agricultural Development Corporation Special Farms Rules 2001 within ninety days of tabling of this report.
3. The Cabinet Secretary Ministry of Lands & Physical Planning considers the request by the Petitioners to increase the allocation of land for the community to 600,000 acres through a public participation exercise prior to any subdivision and take into account among other factors the community interest, historical, economic, and cultural ties within ninety days of tabling of this report.
4. The Agricultural Development Corporation and the Cabinet Secretary, Ministry of Tourism and Wildlife do ensure access to the River Galana Watering Corridor on both sides of the Tsavo East National Park and the ADC land by the residents of Assa and Kone locations in Garsen within ninety days of tabling of this report.
5. The Ethics and Anti-Corruption Commission does fast track the conclusion of the investigations on the alleged irregular sub-divisions of the Galana and Kulalu ADC Ranches in Kilifi and Tana River Counties.

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

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

**MINUTES OF THE 63<sup>RD</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS HELD ON SATURDAY 20<sup>TH</sup> NOVEMBER 2021 AT ENGLISH POINT – MARINA, MOMBASA AT 9.30 A.M.**

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**PRESENT**

1. Hon. Dr. Rachael Nyamai, CBS, M.P - **Chairperson**
2. Hon. Khatib Mwashetani, M. P - **Vice Chairperson**
3. Hon. Benjamin Washiali, CBS, MP
4. Hon. Mishi Mboko, M.P
5. Hon. Omar Mwinyi, MP
6. Hon. Ali Mbogo, M.P
7. Hon. Ahmed Kolosh, MP
8. Hon. Babu Owino, MP
9. Hon. George Risa Sunkuyia, M.P
10. Hon. Owen Yaa Baya, M.P
11. Hon. Patrick Munene Ntwiga, MP
12. Hon. Teddy Mwambire, MP

**APOLOGIES**

1. Hon. Joshua Kutuny, MP
2. Hon. Ahmed Kolosh, MP
3. Hon. George Aladwa, M.P
4. Hon. Josphat Gichunge Kabeabea, M.P
5. Hon. John Muchiri Nyaga, MP
6. Hon. Lilian Tomitom, MP
7. Hon. Samuel Kinuthia Gachobe, MP

**THE NATIONAL ASSEMBLY SECRETARIAT**

1. Mr. Leonard Machira - Senior Clerk Assistant
2. Mr. Ahmad Guliye - Second Clerk Assistant
3. Dr. Kefa Omoti - Research Officer
4. Ms. Jemimah Waigwa - Legal Counsel
5. Ms. Maureen Kweyu - Audio Officer
6. Ms. Peris Kaburi - Serjeant At Arms

**MIN. NO. NA/DDC/LANDS/2021/223: PRELIMINARIES**

The meeting was called to order at thirty-three minutes past nine o'clock with a word of prayer. Thereafter, introductions were made.

**MIN. NO. NA/DDC/LANDS/2021/224: CONSIDERATION OF REPORT ON PETITIONS REGARDING SUBDIVISION OF ADC LANDS AND DEGAZETTEMET OF SPECIFIED ADC LAND IN GARSEN CONSTITUENCY**

The Committee considered the report on joint Petitions by residents of Garsen Constituency in Tana River County regarding subdivision of Agricultural Development Corporation (ADC) land and stakeholder consultation on the Galana – Kulalu Food Security Project and Petition by the same residents regarding degazettement of specified ADC and in Garsen Constituency and recommended the following after it was proposed and seconded by Hon. Owen Baya, MP and Hon. George Sunkuyia, MP respectively;

**RECOMMENDATIONS**

- I. The Cabinet Secretary Ministry of Lands & Physical Planning undertakes public participation regarding the subdivision or disposal of the Galana and Kulalu Ranches in Kilifi and Tana River Counties in accordance with the Agricultural Development Corporation Act (Cap 444) and the Agricultural Development Corporation Special Farms Rules 2001 within ninety days of tabling of this report.
- II. The Cabinet Secretary Ministry of Lands & Physical Planning does submit a request seeking approval by Parliament to secure the 250,000 acres that had already been allocated to the Petitioners by the Agricultural Development Corporation in accordance with the Agricultural Development Corporation Act (Cap 444) and the Agricultural Development Corporation Special Farms Rules 2001 within ninety days of tabling of this report.
- III. The Cabinet Secretary Ministry of Lands & Physical Planning considers the request by the Petitioners to increase the allocation of land for the community to 600,000 acres through a public participation exercise prior to any subdivision and take into account among other factors the community interest, historical, economic, and cultural ties within ninety days of tabling of this report.
- IV. The Agricultural Development Corporation and the Cabinet Secretary, Ministry of Tourism and Wildlife do ensure access to the River Galana Watering Corridor on both sides of the Tsavo East National Park and the ADC land by the residents of Assa and Kone locations in Garsen within ninety days of tabling of this report.
- V. The Ethics and Anti-Corruption Commission does fast track the conclusion of the investigations on the alleged irregular sub-divisions of the Galana and Kulalu ADC Ranches in Kilifi and Tana River Counties.

**MIN. NO. NA/DDC/LANDS/2021/225: CONSIDERATION OF A REPORT ON THE PETITION BY THE FAMILY OF THE LATE MOHAMED MWINYIHAJI BWIKA REGARDING DISPOSSESSION OF DIANI BEACH COMPLEX LAND**

- I. While considering the report on the Petition by the family of the Late Mohamed Mwinyihaji Bwika regarding dispossession of Diani Beach Complex Land, the Committee noted that Gami Properties Ltd which claim ownership to the disputed land was not afforded an opportunity to appear before the Committee and make their submissions.
- II. The Committee also noted that the Cabinet Secretary, Ministry of Lands and Physical Planning was yet to submit on the ownership of the two parcels of land LR No. 13444 and LR No. 13664 prior to their amalgamation giving rise to LR No. 13665.
- III. The Committee resolved to invite Gami Properties Ltd and the Cabinet Secretary, Ministry of Lands & Physical Planning to make their final submissions on the Petition and differ the consideration of the report pending their submissions.


**MIN. NO. NA/DDC/LANDS/2021/226: ADJOURNMENT**

- i. There being no other business to discuss, the meeting was adjourned at fifteen minutes to one o'clock.
- ii. The next meeting will be held on the same day at 2.30 p.m.

Signature .....

**HON. DR. RACHAEL KAKI NYAMAI, CBS, M.P.**  
**(Chairperson)**

Date..... 01/12/2021

 <b>THE NATIONAL ASSEMBLY PAPERS LAID</b>	
<b>DATE: 02 DEC 2021</b>	
<b>DAY: Thursday.</b>	
<b>TABLED BY:</b>	Chairperson Lands Committee
<b>CLERK-AT THE-TABLE:</b>	B. Irzofu



REPUBLIC OF KENYA  
KENYA NATIONAL ASSEMBLY  
TWELFTH PARLIAMENT

DEPARTMENTAL COMMITTEE ON LANDS

*Adoption List*

REPORT ON THE PETITIONS BY RESIDENTS OF GARSEN  
CONSTITUENCY IN TANA RIVER COUNTY REGARDING  
DEGAZETTEMET OF SPECIFIED ADC LAND IN GARSEN  
CONSTITUENCY

Date: 25/11/2021

	NAMES	SIGNATURE
1.	Hon. Dr. Rachael Nyamai, CBS, MP - <b>Chairperson</b>	
2.	Hon. Khatib Mwashetani, MP <b>V/Chairperson</b>	
3.	Hon. Benjamin Washiali, CBS MP	
4.	Hon. Joshua Kutuny Serem, MP	
5.	Hon. Mishi Mboko, MP	
6.	Hon. Omar Mwinyi Shimbwa, MP	
7.	Hon. Ahmed Kolosh, MP	
8.	Hon. Ali Mbogo, MP	
9.	Hon. Babu Owino, MP	
10.	Hon. Caleb Kipkemei Kositany, MP	
11.	Hon. George Aladwa, MP	
12.	Hon. George Risa Sunkuyia, MP	
13.	Hon. John Muchiri Nyaga, MP	
14.	Hon. Josphat Gichunge Kabeabea, MP	
15.	Hon. Lilian Tomitom, MP	
16.	Hon. Owen Yaa Baya, MP	
17.	Hon. Patrick Munene Ntwiga MP	
18.	Hon. Samuel Kinuthia Gachobe, MP	
19.	Hon. Teddy Mwambire, MP	

REPUBLIC OF KENYA



Approved.

THE NATIONAL ASSEMBLY (FOURTH SESSION)

BA  
26/11/2020  
SNA

Hon. Speaker  
You may approve

26/11/2020

PUBLIC PETITION

(No.45 of 2020)

REGARDING SUB DIVISION OF AGRICULTURAL DEVELOPMENT CORPORATION (ADC) LAND AND STAKEHOLDER CONSULTATION ON THE GALANA-KULALU FOOD SECURITY PROJECT

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

**DRAW** the attention of the House to the following: -

1. **THAT**, the Ministry of Water, Sanitation and Irrigation has been implementing the Galana Kulalu Food Security Project covering 1.7 million acres of land in the Galana and Kulalu Government ranches within Tana River and Kilifi Counties;
2. **THAT**, vide a Cabinet Memorandum, measures were proposed on the way forward regarding critical components of the Galana Kulalu Food Security Project such as land Settlement, termination of all the existing leases on the Agricultural Development Corporation (ADC) Land, development of road infrastructure, provision of power connection and upstream pollution and catchment area conservation, protection and management;
3. **THAT**, the Ministry of Lands and Physical Planning has embarked on planning and surveying of the area for resettlement of host communities and subdividing the land for commercial leasing for crops and livestock enterprises;
4. **THAT**, a total of 30,000 families will be settled and allocated 10-acre plots on a lease basis and a 200,000 acres Community Ranch scheme will be established;
5. **THAT**, Section 2 of the Agricultural Development Corporation (Special Farms) Rules provide that no special farm shall be sold, subdivided, transferred or otherwise disposed of without the prior approval by way of a Bill or Motion to be approved by Parliament;

**REGARDING SUB DIVISION OF AGRICULTURAL DEVELOPMENT  
CORPORATION (ADC) LAND AND STAKEHOLDER CONSULTATION ON  
THE GALANA-KULALU FOOD SECURITY PROJECT**

---

6. **THAT**, the Ministry of Water, Sanitation and Irrigation had communicated to the Regional Commissioner, Coast Region of stakeholder consultations scheduled for 9<sup>th</sup> to 11<sup>th</sup> November, 2020 in the affected counties to sensitize the local communities on the interventions to be carried out to complete the project especially the plans for settlement of the local communities in the project area;
7. **THAT**, unfortunately, the consultations did not take place as communicated and no further communication has been received from the Ministry;
8. **THAT**, efforts made by the Petitioners to have the matter addressed have not been successful; and
9. **THAT**, the matters raised in this Petition are not pending before any Court of law, Constitutional or any other legal body.

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

- (i) Inquiries into the circumstances under which the proposed 250,000 acres Community Ranch scheme as per the existing survey map was amended to 200,000 acres;
- (ii) Recommends that the 5,000 beneficiaries under the Community Ranch scheme be increased to a number proportionate to the affected citizens and that priority be accorded to locals who have been directly affected by the project;
- (iii) Ensures that public participation is undertaken as per the Constitution and provisions of the Agricultural Development Corporation (Special Farms) Rules; and
- (iv) Makes any other appropriate recommendations it deems fit in addressing the circumstances raised in this Petition.

And your Petitioners will ever pray.

PRESENTED BY:

~~Ali Wario Guyo~~

**THE HON. ALI WARIO GUYO, MP**  
**MEMBER FOR GARSEN CONSTITUENCY**

DATE: ...26/11/2020...

**PUBLIC PETITION**  
**REGARDING SUB DIVISION OF AGRICULTURAL DEVELOPMENT**  
**(ADC) LAND AND STAKEHOLDER CONSULTATION ON THE**  
**GALANA- KULALU FOOD SECURITY PROJECT**

S/No	NAME OF PETITIONER	ID NUMBER	CONTACT	SIGNATURE
1.	ADHAN H. GURKA	3914336	0925742787	ADHAN
2.	OMAR BAKERO SATI	29233102	0718833710	OMAR
3.	BONEYO OMARI MOHAMMED	35705062	0717194623	BONEYO
4.	MAHMUD SALIMI DIBO	33133941	0720029489	MAHMUD
5.	WAIKOLE NIHO HAMED	31263345	0799475235	WAIKOLE
6.	ABDEHEMAN HUKO DAKANE	28224532	0716761081	ABDEHEMAN
7.	MOHAMMED YATU ADALASHA	20136531	0719461860	MOHAMMED
8.	ABUBAKAR SALAT GALILO	30762578	0707654909	ABUBAKAR
9.	ABUBAKAR IJEMA BORU	29897444	0710939686	ABUBAKAR
10.	OMAR DIBA KANATO	29717567	0721726833	OMAR
11.	OMAR HASSAN NOKOTA	26567952	0745455764	OMAR
12.	HASSAN ALGI JILLO	33125434	0740102790	HASSAN
13.	ROBA ABDALLA BAKERO	31246653	074908388	ROBA
14.	MARYAM D KOKANE	38605705	0797465053	MARYAM
15.	MURU H NOKOTA	127293886	0701042154	MURU
16.	ROBA MAHMUD RACHA	29698921	0704008384	ROBA

**AGRICULTURAL DEVELOPMENT CORPORATION (SPECIAL FARMS) RULES,  
2001**

[L.N. 37/2001, L.N. 157/2003.]

1. These Rules may be cited as the Agricultural Development Corporation (Special Farms) Rules, 2001.

2. (1) The farms of the corporation described in the Schedule to these Rules are designated as special farms for the agricultural purposes specified in relation to each of the farms.

(2) No special farm shall be sold, subdivided, transferred or otherwise disposed of without the prior approval by way of a Bill of Motion to be approved by Parliament.

(3) Any sale, subdivision, transfer or disposal of any special farm made in contravention of this rule shall be null and void, and no instrument relating to such transaction shall be registered under any written law for the time being in force requiring the registration of such instrument.

## SCHEDULE OF SPECIAL FARMS RULES

[L.N. 157/2003, s. 2]

Name of Farm	Location	Land Reg. No.	Area in Acres	Agricultural Purpose/Use
1. Choflim	Trans Nzola	2989 and 9431/7	2,300	Seed maize and seed grass production.
2. Galana	Malindi-Coast	Galana/Block I	1,500,000	Ranching.
3. Japata	Trans Nzola	4140/3, 6106/4, 7136/5, 7155, 7156, 7156/7, 7156/9-11, 7156/14-16, 9437 and 9439	6,302	Seed maize, livestock production and seed grass.
4. Katuke	Trans Nzola	1932/2, 2053	3,641	Seed maize and livestock production.
5. Kiswani	Malindi-Coast	482	3,902	Livestock production.
6. Kufalu	Malindi-Coast	Trust Land Act Cap. 288	250,000	Ranching.
7. Mulara	Rumuruli	10069 and 10070	63,023	National Boran Stud.
8. Ndi	Trans Nzola	5335/13, 5335/21, 5335/23, 5786, 5787, 5787/1 and 5787/2	4,928	Seed maize and livestock production.
9. Namandata	Trans Nzola	5390, 5532, 5574 and 11502/1	3,259	Seed maize and livestock production.
10. OI Ngantongo	Trans Nzola	5337, 5345, 5345/2, 5345/3, 5346, 8855/2, 10297	4,807	Seed maize and livestock production.
11. Sabwari	Trans Nzola	2043, 2992, 2993, (part), 5345/1 and 5722	7,200	Seed maize and livestock production.
12. Sirkwa	Molo	5632/2 (part)	130	Potato seed production / multiplication.
13. Suam Orchards	Trans Nzola	4140/4, 7156/4, 8027 (part)	1,793	Seed maize and horticultural production.
14. Lanek feed lot	Rift Valley	9514/2	1,500	Fattening steers, hay making, embryo transplant.

[Subsidiary]

Agricultural Development Corporation

[Rev. 2012]

REPUBLIC OF KENYA



Approved.

BA  
SNA  
26/11/2020

THE NATIONAL ASSEMBLY (FOURTH SESSION)

PUBLIC PETITION

(No.45 of 2020)

REGARDING SUB DIVISION OF AGRICULTURAL DEVELOPMENT CORPORATION (ADC) LAND AND STAKEHOLDER CONSULTATION ON THE GALANA-KULALU FOOD SECURITY PROJECT

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

DRAW the attention of the House to the following: -

1. THAT, the Ministry of Water, Sanitation and Irrigation has been implementing the Galana Kulalu Food Security Project covering 1.7 million acres of land in the Galana and Kulalu Government ranches within Tana River and Kilifi Counties;
2. THAT, vide a Cabinet Memorandum, measures were proposed on the way forward regarding critical components of the Galana Kulalu Food Security Project such as land Settlement, termination of all the existing leases on the Agricultural Development Corporation (ADC) Land, development of road infrastructure, provision of power connection and upstream pollution and catchment area conservation, protection and management;
3. THAT, the Ministry of Lands and Physical Planning has embarked on planning and surveying of the area for resettlement of host communities and subdividing the land for commercial leasing for crops and livestock enterprises;
4. THAT, a total of 30,000 families will be settled and allocated 10-acre plots on a lease basis and a 200,000 acres Community Ranch scheme will be established;
5. THAT, Section 2 of the Agricultural Development Corporation (Special Farms) Rules provide that no special farm shall be sold, subdivided, transferred or otherwise disposed of without the prior approval by way of a Bill or Motion to be approved by Parliament;

REGARDING SUB DIVISION OF AGRICULTURAL DEVELOPMENT  
CORPORATION (ADC) LAND AND STAKEHOLDER CONSULTATION ON  
THE GALANA-KULALU FOOD SECURITY PROJECT

---

6. THAT, the Ministry of Water, Sanitation and Irrigation had communicated to the Regional Commissioner, Coast Region of stakeholder consultations scheduled for 9<sup>th</sup> to 11<sup>th</sup> November, 2020 in the affected counties to sensitize the local communities on the interventions to be carried out to complete the project especially the plans for settlement of the local communities in the project area;
7. THAT, unfortunately, the consultations did not take place as communicated and no further communication has been received from the Ministry;
8. THAT, efforts made by the Petitioners to have the matter addressed have not been successful; and
9. THAT, the matters raised in this Petition are not pending before any Court of law, Constitutional or any other legal body.

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

- (i) Inquiries into the circumstances under which the proposed 250,000 acres Community Ranch scheme as per the existing survey map was amended to 200,000 acres;
- (ii) Recommends that the 5,000 beneficiaries under the Community Ranch scheme be increased to a number proportionate to the affected citizens and that priority be accorded to locals who have been directly affected by the project;
- (iii) Ensures that public participation is undertaken as per the Constitution and provisions of the Agricultural Development Corporation (Special Farms) Rules; and
- (iv) Makes any other appropriate recommendations it deems fit in addressing the circumstances raised in this Petition.

And your Petitioners will ever pray.

PRESENTED BY:

~~Ali Wario Guyo~~

THE HON. ALI WARIO GUYO, MP  
MEMBER FOR GARSEN CONSTITUENCY

DATE: 26/11/2020

**PUBLIC PETITION**  
**REGARDING SUB DIVISION OF AGRICULTURAL DEVELOPMENT**  
**(ADC) LAND AND STAKEHOLDER CONSULTATION ON THE**  
**GALANA- KULALU FOOD SECURITY PROJECT**

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(3) Any sale, subdivision, transfer or disposal of any special farm made in contravention of this rule shall be null and void, and no instrument relating to such transaction shall be registered under any written law for the time being in force requiring the registration of such Instrument.

## Agricultural Development Corporation

[Subsidiary]

SCHEDULE OF SPECIAL FARMS RULES  
(L.N. 157/2003, s. 2.)

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2. Galana	Mallind-Coast	Galana/Djicki	1,500,000	Ranching.
3. Japata	Trans Nzola	4140/3, 6106/4, 7136/5, 7155, 7156, 7156/7, 7156/9-11, 7156/14-16, 9437 and 9439	6,302	Seed maize, livestock production and seed grass.
4. Katuke	Trans Nzola	1532/2, 2053	3,641	Seed maize and livestock production.
5. Kiswani	Mallind-Coast	482	3,902	Livestock production.
6. Kulalu	Mallind-Coast	Trust Land Act Cap. 288	250,000	Ranching.
7. Mulara	Rumuruf	10069 and 10070	63,023	National Boran Stud.
8. Nal	Trans Nzola	5335/13, 5335/21, 5335/23, 5786, 5787, 5787/1 and 5787/2	4,928	Seed maize and livestock production.
9. Namandaia	Trans Nzola	5390, 5532, 5574 and 11502/1	3,259	Seed maize and livestock production.
10. Ol Ngantongo	Trans Nzola	5337, 5345, 5345/2, 5345/3, 5346, 8855/2, 10297	4,807	Seed maize and livestock production.
11. Sabwani	Trans Nzoin	2043, 2992, 2993, (part), 5345/1 and 5722	7,203	Seed maize and livestock production.
12. Sirikwa	Molo	5632/2 (part)	130	Potato seed production / multiplication.
13. Suam Orchards	Trans Nzola	4140/4, 7156/4, 8027 (part)	1,793	Seed maize and horticultural production.
14. Lamot feed lot	R/R Valley	9514/2	1,500	Fattening steers, hay making, embryo transplant.



REPUBLIC OF KENYA  
MINISTRY OF WATER, SANITATION AND IRRIGATION  
OFFICE OF THE PRINCIPAL SECRETARY

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NGONG ROAD  
P. O. BOX 49720-00100  
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Ref: MWSI/DI/PS/ VOL VII (146)

Date: 2<sup>nd</sup> November 2020

Mr. John Elungata  
Regional Commissioner  
COAST REGION

Dear *John*

**RE: STAKEHOLDER CONSULTATION ON GALANA KULALU FOOD SECURITY PROJECT.**

The Ministry of Water, Sanitation and Irrigation has been implementing Galana Kulalu Model Farm which is expected to be completed by June 2021. A consultative meeting was held at Harambee House on 9<sup>th</sup> and 13<sup>th</sup> October 2020 with the leadership of Kilifi and Tana River Counties to brief them of the strategies that have been put in place to complete the Galana Kulalu Food Security Project. It was agreed that stakeholder consultations be held with the local leadership of the respective Counties to discuss the completion of the Project.

The objective of this engagement is to sensitize the local communities on the interventions to be carried out to complete the project especially the plans for settlement of the local communities in the project area.

The purpose of this letter is therefore to request you to ask the County Commissioners Kilifi and Tana River to organize the meetings in their respective Counties and invite the local leadership to the stakeholder consultation meetings that have been scheduled from 9<sup>th</sup> to 11<sup>th</sup> November 2020. The tentative programme for the meetings is as follows:

	DATE	VENUE	ACTIVITY
1	9 <sup>th</sup> November 2020	Hola	Meeting with Tana River local leadership
2	10 <sup>th</sup> November 2020	Kilifi (Malindi town)	Meeting with Kilifi local leadership
3	11 <sup>th</sup> November 2020	Kilifi (Malindi town)	Wrap up meeting with leaders of Kilifi and Tana River Counties.

Yours

*Sincerely*  
*[Signature]*  
Joseph W. Iungu, CBS  
PRINCIPAL SECRETARY

**Copy to:** Sicily K. Kariuki (Mrs.), E.G.H.  
Cabinet Secretary  
Ministry of Water, Sanitation and Irrigation  
**NAIROBI**

**H.E. Hon Amason Jeffah Kingi**  
The Governor  
County Government of Kilifi  
**KILIFI**

**H.E. Dhadho Gaddae Godhana**  
The Governor  
County Government of Tana River  
**HOLA**

**Dr (Eng.) Karanja Kibicho, CBS**  
Principal Secretary  
Interior & Citizen Services  
Chairperson, National Development  
Implementation Technical Committee  
**NAIROBI**



## REPUBLIC OF KENYA

### MINISTRY OF WATER, SANITATION AND IRRIGATION

#### MEETING WITH DEPARTMENTAL COMMITTEE ON LANDS TO RESPOND TO QUESTIONS ON A PETITION BY THE RESIDENTS OF GARSEN CONSUENCY REGARDING SUBDIVISION OF AGRICULTURAL DEVELOPMENT COOPERATION (ADC) LAND AND STAKEHOLDER CONSULTATIONS IN THE GALANA KULALU FOOD SECURITY PROJECT IN TANA RIVER AND KILIFI COUNTIES

---

**Hon. Chair,** before responding to the issues raised, let me start by giving a short background of the project. Galana Kulalu Food Security Project was conceived as a national food security project in the year 2013 after Pre-feasibility and pre- investment studies covering 1.7 million acres of land in the Galana and Kulalu Government ranches within Tana River and Kilifi Counties.

An additional, critical goal of the project was the creation of a conducive environment for private sector participation in production through long-term leases. The project further anticipated the transformation of the region into an agro-industrial hub replete with complementary investments in livestock, fisheries, tourism and transport among other sectors. The 10,000-acre- Model Farm was to be developed first to showcase the irrigation technologies expected to be replicated in the whole of the project. The main components of the project area include

irrigation systems, pumping stations, logistics and agricultural machinery center and operations and maintenance.

**Hon. Chair,** The current phase of the project targeted to pilot 10,000 acres under irrigation using high technology drip and centre pivot Irrigation systems. The project is at 92% completion and 5,100 acres has been installed with irrigation infrastructure. (2 pumping stations constructed, 8 pumps installed, and 20 center pivots installed (3,300 acres) and installation of 1800 acres of drip system). The remaining works to put additional 4,900 acres under irrigation is ongoing.

**Hon. Chair,** A joint comprehensive Cabinet Memorandum was developed to propose the way forward on critical components of the Galana Kulalu Food Security Project which will ensure full utilization of the 1.75 million acre ranch. A consultative meeting was held on 28<sup>th</sup> September 2020 with the relevant Cabinet Secretaries of the implementing Ministries together with the Governors of Kilifi and Tana River Counties to discuss the interventions to be carried out to complete the Galana Kulalu Food Security Project.

Subsequently consultative meetings on the proposed interventions were held on 9<sup>th</sup> and 13<sup>th</sup> October 2020 to brief the leadership of Tana River and Kilifi Counties respectively. The two meetings were attended by the Governors, Senators and Members of Parliament of the respective Counties and areas. Consultative meetings with the local leaders of Tana River and Kilifi Counties were also planned to be held between 9<sup>th</sup> and 11<sup>th</sup> November 2020 but could not take place because of COVID restrictions.

**Hon. Chair,** the joint Cabinet Memorandum was discussed in the National Development Implementation Technical Committee (NDITC)

which is a committee for Principal Secretaries created under Executive Order No. 1 of 2019. NDITC is charged with the responsibility of coordination and implementation of National Government development projects. The NDITC assigned the Principal Secretary Ministry of Water, Sanitation and Irrigation with the task of coordinating the activities to be undertaken in order to complete the project.

**Hon. Chair,** The following measures have been recommended in order to complete the project: Upstream pollution control and catchment area conservation, protection and management; undertake development of road infrastructure and construction of a 250m Bridge across River Galana; provision Grid Power for Galana Kulalu Project; completion of the Model Farm and Involvement of Private Sector in Production; and planning and surveying of the area for resettlement of host communities and subdividing the land for commercial leasing for crops and livestock enterprises.

**Hon. Chair,** *turning to the issues raised, I wish to respond as follows;*

***Question 1. Whether the Agricultural Development Cooperation (ADC) and the National Land Commission were consulted or participated in the planned sub- division of land in Galana and Kulalu Ranches to facilitate the establishment of the food security project***

**Hon. Chair,** the Ministry of Water, Sanitation and Irrigation is coordinating the implementation of the various activities for completion of Galana Kulalu Food Security project through a directive from National Development Implementation Technical Committee. The Cabinet Memorandum outlining the activities to be carried out was signed by the

Cabinet Secretaries of the implementing Ministries including the Cabinet Secretaries of Ministry of Agriculture, Livestock & Fisheries and Cooperatives and the Ministry of Lands and Physical Planning where the Agricultural Development Cooperation and National Land Commission are domiciled respectively. ADC was involved in the preparation of the report on completion of Galana project that culminated into the joint Cabinet Memorandum.

***Question 2. Whether the Agricultural Development Cooperation (ADC) Act (CAP444) and the Agricultural Development Cooperation (ADC) special farms rules 2001 were followed in the planned sub-division to facilitate the implementation of the Galana Kulalu Food Security project***

**Hon. Chair,** a draft physical land use plan has been prepared by the Ministry of Lands and Physical Planning which was given the task of planning the land parcels. The land use plan is yet to be finalized and the report is yet to be subjected to stakeholder consultation. The physical land use plan was to designate the various agro ecological zones in the project area for planning purposes. More details for the proposed physical land use plan can be obtained from the Ministry of Lands and Physical Planning.

**Hon. Chair,** I submit.

**Joseph W. Irungu, CBS**  
**PRINCIPAL SECRETARY**

# REPUBLIC OF KENYA



## MINISTRY OF AGRICULTURE, LIVESTOCK, FISHERIES AND COOPERATIVES OFFICE OF THE CABINET SECRETARY

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Website: [www.kilimo.go.ke](http://www.kilimo.go.ke)  
Email: [cabinetsecretary@kilimo.go.ke](mailto:cabinetsecretary@kilimo.go.ke)  
When replying please quote

KILIMO HOUSE  
CATHEDRAL ROAD  
P.O. Box 30028-00100  
NAIROBI

Ref. MOALFI/ADM/1/27/3/VOL.IX

27<sup>th</sup> September, 2021

**Mr. Michael R. Sialai, EBS**  
Clerk of the National Assembly  
Parliament Buildings  
**NAIROBI**

Dear *Clerk*,

**RE: PETTITON BY RESIDENTS OF GARSEN REGARDING  
DEGAZZETMENT OF SPECIFIED AGRICULTURAL DEVELOPMENT  
CORPORATION (ADC) LAND IN GARSEN CONSTITUENCY**

Reference is made to your letter Ref. NA/DDCS/LANDS/2021/104 of 25<sup>th</sup> August, 2021 regarding the above subject.

I regretably wish to inform you that I will be attending a Cabinet Meeting (NDICCC) tomorrow 28<sup>th</sup> September, 2021 and will therefore not be able to attend the above meeting in person.

In view of the above, I have delegated the above session to: -

1. **Ms Anne Nyaga - Chief Administrative Secretary**
2. **Mr. Mohamed Bulle - Managing Director Agricultural Development Corporation (ADC)** to represent me during the meeting.

Your positive regard on this matter will be highly appreciated.

Yours *Sincerely*,

A handwritten signature in black ink, appearing to be 'Peter G. Munya', written over a large, stylized circular flourish.

**Hon. Peter G. Munya, EGH**  
**CABINET SECRETARY**

# **REPUBLIC OF KENYA**



## **MINISTRY OF AGRICULTURE, LIVESTOCK, FISHERIES AND CO-OPERATIVES**

---

**A PETTITON BY RESIDENTS OF GARSEN REGARDING  
DEGAZZETMENT OF SPECIFIED AGRICULTURAL DEVELOPMENT  
CORPORATION (ADC) LAND IN GARSEN CONSTITUENCY**

**BY**

**HON. PETER G. MUNYA, EGH**

**CABINET SECRETARY**

---

**SEPTEMBER 2021**

## **Introduction**

The mandate of the Corporation as anchored in the Agricultural Development Act Cap 444 Laws of Kenya, is to promote the production of Kenya's essential agricultural inputs which the Corporation may decide from time to time. These include seeds and pedigree and high grade Livestock including, hybrid seed maize, cereal seed, potato seed, pasture seed, vegetable seed, pedigree and high grade cattle, sheep, goats, pigs, poultry and bees. The mandate emphasizes on the fulfilment of the Government's big four agenda of food, security and nutrition.

In consideration of the above referenced petition we now wish to respond as follows; -

## **RESPONSE TO PUBLIC PETITION NO. 031 OF 2021**

1. **THAT**, the Galana Ranch Scheme spans over 1.5 million acres and was established in 1968 as a game and trading company before being acquired by the National Government through the Agricultural Development Corporation (ADC) to provide a buffer zone between Tsavo National Park and surrounding communities, to undertake beef ranching, off-take management during drought as well as for production of biogas;

### **Response**

It is true that ADC owns Galana Ranch measuring approximately **1.5 Million Acres** and Kulalu Ranch measuring approximately **245,000 Acres** and both combined makes a total area of approximately **1.75 Acres**. The activities for which the land was acquired i.e Beef ranching, off-take management during drought as well as for production of biogas, Livestock rearing are on top gear with over 7,000 livestock and 250 employees.

The total assets in addition to airstrips, road networks, staff quarters, Corporation offices/office equipment and animals can be valued at billions of shillings.

2. **THAT**, through the intervention of H.E. President Mwai Kibaki in 2006 and H.E. President Uhuru Kenyatta in 2013, the Agricultural Development Corporation was directed to release 250,000 acres to residents of Assa and Kone Locations near Tsavo East National Park, with pastoralists being granted access to the River Galana Watering Corridor to water their livestock;

### Response

We are aware of the directives given by H.E the then <sup>2006 & 2013</sup> President of the Republic of Kenya. However, ~~such~~ such a directive the same were to be implemented in line with the ADC Special Farms Rules 2001 which were already, in force and no follow up was made with the parliament to effect the release of the said land through the required legal procedures. **(Attached and marked "ADC 1" is a copy of ADC Special Farms Rules 2001)**

3. **THAT**, the proposed subdivision involves 100 acre blocks totaling 200,000 acres categorized as small scale, 10-acre blocks totaling 300,000 acres categorized as settlement schemes, 10,000 acre blocks totaling 400,000 acres categorized as large scale, 5,000 acre blocks totaling 200,000 acres categorized as medium scale one, and 1,000 acre blocks totaling 200,000 acres categorized as medium scale one, and 1,000 acre blocks totaling 200,000 acres categorized as medium scale two under the Galana Ranch Scheme.

### Response

The Corporation is aware of the proposed irregular Sub-division of the ADC Galana which was commenced WITHOUT involving ADC, National Land Commission (NLC) and no legal procedure followed in line with the ADC Special Farm Rules 2001 prompting ADC's earlier Petition which is still pending before the Parliamentary Committee on Lands. **(Attached and marked "ADC 2" is a copy of the said petition)**

4. **THAT**, the proposed subdivisions will adversely affect the entire community which primarily depends on the land to graze the large number of livestock that includes herds of cattle, sheep, goats and camels, thereby creating potential for protracted conflicts in future due to inadequate size of grazing land particularly in view of the fact that the land in question is currently occupied by the community, with the ADC occupying less than 10% of the entire acreage;

### Response

The issue of ADC occupying 10% of Galana Kulalu is not true is disputed as ADC Galana and Kulalu are Government Ranches with the title being held by ADC. It is worth noting that ADC is just custodian of these ranches and the use is specified

in the Act. The policy on change of use or ownership is well elaborated under the Special Farms Rules.

**5. THAT**, the 250,000 acres earmarked for the community is extremely inadequate, and ought to be increased to a minimum of 600,000 acres in view of the current demand for grazing land;

#### **Response**

**a) THAT** ADC is carrying out its statutory mandate and activities on the land and the food security project under National Irrigation Authority is just one of them.

**b) THAT** the Parliament of the Republic of Kenya in its own wisdom formulated the ADC Special Farms Rules in 2001 and any action against the said rules will be against the intention of Parliament.

**6. THAT**, efforts to have these proposed subdivisions revised by the relevant authorities have not yielded any fruit;

#### **Response**

The Corporation also moved to parliament through its petition to challenge the said irregular sub-divisions as the same contravenes the law and will adversely jeopardize the operations of the Corporation.

**7. AND THAT**, the issues in respect of which this petition is made are not pending before any court of law, or other constitutional or legal body.

#### **Answer:**

**THAT** the issue of the subject land is currently under investigations by the Ethics and Anti-Corruption Commission. There is also a petition before the parliament on the Subject Land. **(Attached and marked "ADC 3" are some correspondence from EACC & DCI).**

## Prayers

**THEREFORE**, your humble petitioners pray that the National Assembly through the Departmental Committee of Lands.

i) Intervenes to facilitate timely de-gazettement of the said land to convert it to community land for grazing and related communal use by residents of Assa and Kone Locations of Garsen Constituency, as well as de-gazettement of the River Galana Watering Corridor on both sides of the Tsavo East National Park and the ADC Land.

## Response

a) It is recommended for the Parliamentary Departmental Committee on Lands to consider the Petition by the Corporation challenging the said irregular Sub-division of Galana which is still pending before the Parliament.

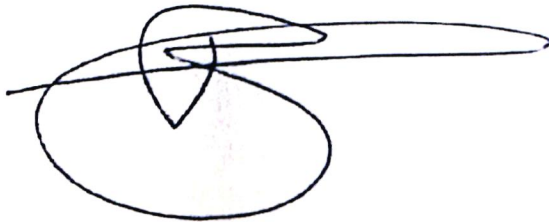
b) The matter concerning the subject land is currently under investigations by the Ethics and Anti-Corruption Commission.

ii) Intervenes to facilitate the increment of the Galana Community Group Ranch from the proposed 250,000 acres to 600,000 and to guarantee that at least 25% of beneficiaries in all land block categories are local residents from communities in Garsen Constituency and

## Response

a) Parliament should consider the Petition by the Corporation challenging the said irregular Sub-division of Galana which is still pending before the Parliament which is also the subject of investigation by the Ethics and Anti-Corruption Commission.

b) Parliament may consider the intent, spirit and circumstances that gave rise to the enactment of ADC Special Farm Rules 2001 and same wisdom applied then, should still be applicable today. Food security and statutory obligations of ADC stand to be highly compromised if this petition were to succeed. The future of farming as a government enterprise is hinged on availability of land. Let our Honorable Parliament protect this resource for posterity



**27<sup>th</sup> September 2021**

**Signature.....**

**Date.....**

**Hon. Peter G. Munya, EGH  
CABINET SECRETARY**

“ ADC 1 ”

**AGRICULTURAL DEVELOPMENT CORPORATION (SPECIAL FARMS) RULES,  
2001**

[L.N. 37/2001, L.N. 157/2003.]

1. These Rules may be cited as the Agricultural Development Corporation (Special Farms) Rules, 2001.

2. (1) The farms of the corporation described in the Schedule to these Rules are designated as special farms for the agricultural purposes specified in relation to each of the farms.

(2) No special farm shall be sold, subdivided, transferred or otherwise disposed of without the prior approval by way of a Bill of Motion to be approved by Parliament.

(3) Any sale, subdivision, transfer or disposal of any special farm made in contravention of this rule shall be null and void, and no instrument relating to such transaction shall be registered under any written law for the time being in force requiring the registration of such instrument.

\_\_\_\_\_

[Subsidiary]

SCHEDULE OF SPECIAL FARMS RULES  
[L.N. 157/2003, s. 2.]

Name of Farm	Location	Land Reg. No.	Area in Acres	Agricultural Purpose/Use
1. Chorifim	Trans Nzola	2989 and 94317	2,300	Seed maize and seed grass production.
2. Galana	Malindi-Coast	Galana/Block I	1,500,000	Ranching.
3. Japata	Trans Nzola	4140/3, 6106/4, 7136/5, 7155, 7156, 7156/7, 7156/9-11, 7156/14-16, 9437 and 9439	6,302	Seed maize, livestock production and seed grass.
4. Katuke	Trans Nzola	1932/2, 2053	3,641	Seed maize and livestock production.
5. Kiswani	Malindi-Coast	482	3,902	Livestock production.
6. Kulalu	Malindi-Coast	Trust Land Act Cap. 288	250,000	Ranching.
7. Mutara	Rumuruti	10069 and 10070	63,023	National Boran Stud.
8. Nai	Trans Nzola	5335/13, 5335/21, 5335/23, 5786, 5787, 5787/1 and 5787/2	4,928	Seed maize and livestock production.
9. Namandala	Trans Nzola	5390, 5532, 5574 and 11502/1	3,259	Seed maize and livestock production.
10. Ol Ngantongo	Trans Nzola	5337, 5345, 5345/2, 5345/3, 5346, 8855/2, 10297	4,807	Seed maize and livestock production.
11. Sabwani	Trans Nzola	2043, 2992, 2993, (part), 5345/1 and 5722	7,200	Seed maize and livestock production.
12. Sirikwa	Molo	5632/2 (part)	130	Potato seed production / multiplication.
13. Suam Orchards	Trans Nzola	4140/4, 7156/4, 8027 (part)	1,793	Seed maize and horticultural production.
14. Lanet feed lot	Rift Valley	9514/2	1,500	Fattening steers, hay making, embryo transplant.

"ADC 2(a)"

Address all correspondence  
to the Managing Director



## AGRICULTURAL DEVELOPMENT CORPORATION

P.O. BOX 47101-00100, DEVELOPMENT HOUSE, TEL: 2250695/185, 020-3315746  
NAIROBI

Our Ref: MD/73/2/C/NS/VOL.3/Folio.20

3<sup>rd</sup> May, 2021

Clerk of the National Assembly,  
Clerk Chambers,  
National Assembly,  
Parliament Buildings,  
P. O. Box 41842 – 00100,  
**NAIROBI**

Mr. Leonard Machira  
ongegul@gmail.com  
Tel. No. 0718-379275  
**NAIROBI**

Mr. Ahmed Guliye  
Guliye27@gmail.com  
Tel No. 0723-473758  
**NAIROBI**

Dear Sir,

**SUBJECT: CONSIDERATION OF PETITION BY RESIDENTS OF GARSEN  
REGARDING SUB SUB-DIVISION OF THE AGRICULTURAL  
DEVELOPMENT CORPORATION (ADC) LAND AND STAKEHOLDER  
CONSULTATIONS ON GALANA KULALU FOOD SECURITY PROJECT**

Reference is made to your letter dated 28<sup>th</sup> April 2021 inviting the Chairperson of Agricultural Development Corporation to a virtual meeting on Tuesday 4<sup>th</sup> May, 2021 at 10 am to consider issues raised in the petition and the alleged fraudulent subdivision and allocation of Agricultural Development Corporation (ADC) land in Galana Kulalu, Kilifi County.

The mandate of the Corporation as anchored in the Agricultural Development Act Cap 444 Laws of Kenya, is to promote the production of Kenya's essential agricultural inputs which the Corporation may decide from time to time. These include seeds and pedigree and high

1 | Page

grade Livestock including, hybrid seed maize, cereal seed, potato seed, pasture seed, vegetable seed, pedigree and high grade cattle, sheep, goats, pigs, poultry and bees. The mandate emphasizes on the fulfilment of the Government's big four agenda of food, security and nutrition.

Against this background, in the year 2013 the Corporation took part in the Galana Kulalu food security project by entering into a lease agreement with the National Irrigation Authority so as to help the Government meet one of the pillars in its Big Four Agenda, being food security.

Beside the involvement in the project with the Government, the Corporation also entered into various engagements with private investors to lease out part of the subject land.

Our attention was drawn by the sentiments of Hon. Joseph Irungu, Principal Secretary for Water and Sanitation, in his interview carried out by Royal Media Citizen TV, on 2<sup>nd</sup> November 2020 in which he expressed the Government's desire to dispose of the above captioned properties in various ways including allocation to squatters in Kilifi County. In this regard, we understand that a committee, being the National Development Implementation Technical Committee (NDITCC) has been mandated to deal with the matter. This development came as a surprise since the land is subject to rights and obligations including lease agreements, which ought to have been considered before the land is dealt with in any way. Being custodians and having held the subject land in trust of the Government and engagements of private investors by the Corporation, it is prudent that the Corporation is involved in all aspects.

A letter Ref: MLPP/ADM/20/11 (2) dated 12<sup>th</sup> November 2020 from the Ministry of Lands and physical Planning requesting the Corporation to allow a group of surveyors to conduct preliminary activities in the quest to implement the food security project as directed by the Cabinet. The Corporation has not been informed formally of the directive by the Cabinet nor been involved in any of the consultative meetings.

## **RESPONSE TO PARTICULAR QUESTIONS**

### **QUESTION 1**

WAS AGRICULTURAL DEVELOPMENT CORPORATION BOARD OF DIRECTORS INFORMED OR INVOLVED IN SUB DIVISION PROCESS?

### **ANSWER**

Attached letter MD/11/C/NS of 15<sup>th</sup> November, 2020 addressed to the Hon. Peter Munya, MGH, Cabinet secretary, Ministry of Agriculture, Livestock, Fisheries and Cooperatives and copied to Dr. Joseph K. Kinyua, EGM, Head of Public Service, Office of the President, , Dr. (Eng) Karanja Kibicho, CBS, Chairperson, National Development Implementation Technical Committee (NDITCC), Ministry of Interior & Coordination of National Government, Hon. (Amb) Ukur Yatani, EGH, Cabinet Secretary, National Treasury & Planning.

Agricultural Development Corporation was neither informed formally nor been involved in any of the consultative meetings except when Agricultural Development Corporation attention was drawn by the sentiments of Hon. Joseph Irungu, Permanent Secretary for water and sanitation in his interview carried on by Royal Media Citizen TV, on 2<sup>nd</sup> November, 2020 in which he expressed the Government's desire to dispose of the above captioned properties in various ways including allocation to squatters in Kilifi County and received a letter Ref:MLPP/AND/20/11 (2) dated 12<sup>th</sup> November, 2020 from the Ministry of Lands and Physical Planning requesting the Corporation to allow a group of surveyors to conduct preliminary activities in the quest to implement the food security project as directed by the Cabinet.

### **QUESTION NO. 2**

WAS THE VERY WELL STIPULATED IN THE SUBSIDIARY REGISTRATION UNDER ADC SPECIAL FARMS RULE (2001) FOLLOWED OF ADC ACT CAP 444 LAWS OF KENYA?

**Sec 2 (2) "No special farm shall be sold, subdivided, transferred or otherwise disposed off without the prior approval by way of a Bill of Motion to be approved by Parliament."**

**Sec 2 (3) "Any sale, subdivision, transfer or disposal of any special farm made in contravention of this rule shall be null and void, and no instrument relating to**

**such transaction shall be registered under any written law for the time being in force requiring the registration of such instrument.”**

**ANSWER**

No

**QUESTION 3**

WHAT ACTION DID THE ADC MANAGEMENT AND BOARD OF DIRECTORS TAKE?

**ANSWER**

Attached ADC letter MD/40/2/C/MB of 27<sup>th</sup> November 2020 addressed to Hon. Peter Munya, cabinet Secretary, Ministry of Agriculture, Livestock, Fisheries & Cooperatives and copied to Prof. Hamadi Boga, Principal secretary, State Department for Crop Development and Agricultural Research with copies of extract of the minutes of the Special Full Board meeting held at the ADC Boardroom in Nairobi on 26<sup>th</sup> November 2020 with ADC Board of Directors deliberations and resolutions.

**QUESTION 4**

WAS NATIONAL DEVELOPMENT IMPLEMENTATION TECHNICAL COMMITTEE (NDITC) MEETING EXECUTIVE BRIEF FORWARDED TO ADC FOR INFORMATION?

**ANSWER**

Yes, attached copy of minutes from Mr. Joseph Irungu, CBS, Principal Secretary, Ministry of Water, Sanitation and Irrigation refers.

**QUESTION 5**

ARE THERE OTHER ILLEGAL AND IRREGULAR ACTIVITIES TAKING PLACE IN GALANA KULALU ADC LAND AND IF SO WHAT IS THE GROUND POSITION?

**ANSWER**

Yes,

The sub-division and adjudication process taking place is neither as per the constitution, land adjudication, physical and land use planning act 2019, the Agricultural Development Corporation Act chapter 444, the Surveys Act Chapter 299, the Community Land Act 2016, the Land Control Act chapter 302, the Land Registration Act 2012, the Land Act 2012 nor following the laid down adjudication or subdivision procedures.

By December 2020 the subdivision process had already invaded an area of approximately **two hundred and fifty thousand acres (101,171 hectares)**. By the time the ADC Board of directors visited the land, subdivision process was going on and by 27<sup>th</sup> February 2021 the subdivision process had already encroached on ADC Land by **three hundred and one thousand, three hundred and fifty (301,350) acres (121,952 hectares)**. That means the illegal land buying companies or individuals are illegally subdividing the ADC Galana land at the rate of **twenty-five thousand (25,000) acres** per month followed by clearing of access roads.

#### **QUESTION 6**

WHAT ACTION DID THE MANAGEMENT OF ADC AND BOARD OF DIRECTORS TAKE AFTER NOTING THE ILLEGAL SUBDIVISION AND ADJUDICATION PROCESS AND INVASION OF **THREE HUNDRED AND ONE THOUSAND, THREE HUNDRED AND FIFTY (301,350) ACRES (121,952 HECTARES)** WORTH AT A MARKET RATE OF **KSHS. FIFTY THOUSAND (50,000/=) PER ACRE?**

**KSHS. FIFTEEN BILLION, SIXTY-SEVEN MILLION, FIVE HUNDRED THOUSAND (KSHS. 15,067,500,000/=)**

#### **ANSWER**

ADC Chairman's letter referenced MD/40/2/C/BM OF 9<sup>th</sup> April 2021 addressed to Farida Karoney, EGH, Cabinet Secretary, Ministry of Lands and Physical Planning, Dr. Nicholas Muraguri, CBS, Principal Secretary, Ministry of Land and Physical Planning, Gershom Otachi, Chairman, National Lands Commission, Director of Land Adjudication and Settlement, Director of Surveys, Kilifi County Commissioner, Kilifi County Adjudication Officer, Kilifi National County

Surveyor and copied to Dr. Joseph Kinyua, EGH, Head of Public Service, Hon. Peter Munya, MGH, Cabinet Secretary, Ministry of Agriculture, Livestock, Fisheries and Co-operatives, Hon. Amb. Ukur Yattani, EGH, Cabinet Secretary, National Treasury, Prof. Hamadi Boga, PhD, CBS, Principal Secretary, State Department of Crop Development and Agricultural Research, Dr. (Eng.) Karanja Kibicho, CBS, Principal Secretary, Ministry of Interior & Coordination of National Government.

### **QUESTION 7**

WHAT INTENTION AND STRATEGY IS ADC MANGEMENT AND BOARD OF DIRECTORS TAKING TO LEAVE ADC BETTER THAN YOU FOUND IT?

### **ANSWER**

Request Ministry of Lands to liaise with ADC and have the perimeter boundary established by the Director of Surveys to avoid overlap of adjacent land within established adjudication sections as well as respecting Land Act and Adjudication laid down procedures, Survey Act, Physical and Land Use Planning Act, request for information on the official Government position on ADC land and regular consultations with land related authorities whenever need arises as well as participation of all stakeholders.

### **QUESTION 8**

WHAT REQUEST OR ASSISTANCE WOULD YOU LIKE TO SUCCESSFULLY BRING ADC TO A HIGHER AND BETTER LEVEL LIKE OTHER SUCCESSFUL STATE CORPORATIONS?

### **ANSWER**

Revive the grading, organization structure and staff establishment, increase Agricultural farm produce and strategically come with a way forward on how ADC can create more revenue and food security in all ADC Farms. Parliament and line Ministry to budget and allocate ADC enough/available funds to revive what has been misappropriated before the government came to ADC Rescue.

Finally attached please find copies of;

1. ADC Chairman's letter reference MD/11/C/NS of 15<sup>th</sup> November 2020.
2. ADC Managing Directors letter reference MD/40/2/C/MB of 27<sup>th</sup> November, 2020 and Board of Directors deliberation on status and resolutions.
3. ADC Chairman's letter MD/40/2/C/BM of 9<sup>th</sup> April 2021.
4. Land, legal and partnership committee report on the status of invasion and sub division report of Galana Kulalu ADC land as well adjudication sections which may have extended into Galana ADC land.
5. National Development Implementation Technical Committee (NDITC) brief on implementation of Galana Kulalu food security project.
6. Two (2) copies of maps showing the status of the subdivided ADC Land in question.

Thank you for inviting me to discuss ADC land issues with the Departmental committee on land.

I sincerely feel privileged to have been invited by this honourable committee.

Thank you once more and May God bless you all and your honourable colleagues in other departmental committees.

Enclosures

Yours Faithfully,

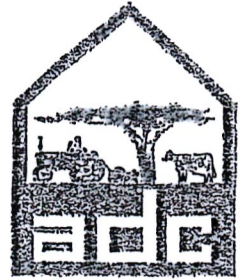


**HON. NICHOLAS SALAT**  
**CHAIRMAN**

"ADC 2(b)"



2



Address all correspondence  
to the Managing Director

**AGRICULTURAL DEVELOPMENT CORPORATION**

P.O. BOX 47101-00100, DEVELOPMENT HOUSE, TEL: 2250695/185, 020-3315746  
NAIROBI

**Our Ref: MD/40/2/C/BM**

9<sup>th</sup> April, 2021

Farida Karoney, EGH  
Cabinet Secretary  
Ministry of Lands and Physical Planning  
**NAIROBI**

Dr. Nicholas Muraguri, CBS  
Principal Secretary  
Ministry of Land and Physical Planning  
**NAIROBI**

Chairman Gershom Otachi  
National Lands Commission  
**NAIROBI**

Director of Land Adjudication and Settlement  
P. O. Box 30450 - 00100  
**NAIROBI**

Director of Surveys  
**NAIROBI**

Kilifi County Commissioner  
P.O. Box 19 - 30108  
**KILIFI**

Kilifi County Adjudication Officer  
**KILIFI**

Kilifi National County Surveyor  
**KILIFI**

Dear *CS*,

**RE: AGRICULTURAL DEVELOPMENT CORPORATION GALANA LAND**

Agricultural Development Corporation (ADC) is the registered owner of Galana parcel of land block 1/1 and ADC is therefore the official custodian of their property complete with title deed in its name.

The ADC attention had been drawn by the invasion of the land by very few settlers who have cultivated less than 10 acres in very few small areas, adjudication process in the name of ADU KAMALE, ADU CHAMARI and WAKALA ADJUDICATION sections and massive sub-division and clearing for access roads by land buying companies / private persons. The resultant subdivisions are being sold to unsuspecting buyers and have already started cultivation and clearing of access roads.

By December 2020 the subdivision process had already invaded an area of approximately two hundred and fifty thousand acres (101,171 hectares). By the time the ADC Board of directors visited the land, subdivision process was going on and by 27<sup>th</sup> February 2021 the subdivision process had already encroached on ADC Land by three hundred and one thousand, three hundred and fifty (301,350) acres (121,952 hectares). That means the illegal land buying companies or individuals are illegally subdividing the ADC Galana land at the rate of twenty-five thousand (25,000) acres per month followed by clearing of access roads.

Also within the invaded land there is an individual excavating a dam on the ADC Land without ADC authority or agreement.

Fresh beacons, cutlines and road access opening to service the parcels on the land under subdivision was witnessed by ADC Board of Directors visit in February and March 2021 but unfortunately the persons who were subdividing the land took off and disappeared before the ADC could succeed in getting their identifications.

The Corporation (ADC) as a state body has been mandated to manage and safeguard the national farms which is very well stipulated in the subsidiary legislation under ADC Special Farms Rules (2001) which provides as follows: -

**Sec 2 (2) "No special farm shall be sold, subdivided, transferred or otherwise disposed off without the prior approval by way of a Bill of Motion to be approved by Parliament."**

**Sec 2 (3) "Any sale, subdivision, transfer or disposal of any special farm made in contravention of this rule shall be null and void, and no instrument relating to such transaction shall be registered under any written law for the time being in force requiring the registration of such instrument."**

However, ADC holds this land for the Governments strategic purposes and that is why they were gazetted as special farms. In the event that ADC or the government wishes to allocate some of the gazetted land, the following steps need to be noted as per the law to avoid future litigation against the current board of directors who did not participate in the process.

1. A board resolution indicating the need and the reason why ADC wishes to sell or allocate some of its land.
2. The same board resolution should be communicated to the line Ministry and Treasury for concurrence.
3. ADC should also seek authority from National Land commission for concurrence.
4. The Board resolution and authority from National Land commission is taken to National Assembly for debate and direction.

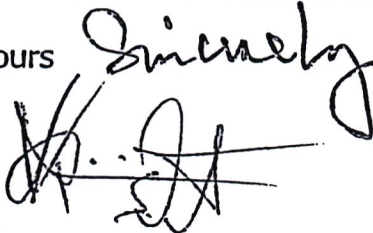
The sub-division and adjudication process taking place is neither as per the constitution, land adjudication, physical and land use planning act 2019, the Agricultural Development Corporation Act chapter 444, the Surveys Act Chapter 299, the Community Land Act 2016, the Land Control Act chapter 302, the Land Registration Act 2012, the Land Act 2012 nor following the laid down adjudication or subdivision procedures.

However, the purpose of this letter is to request Ministry of Lands to liaise with ADC and have the perimeter boundary established by the Director of Surveys to avoid overlap of adjacent land within established adjudication sections as well as respecting Land Act and Adjudication laid down procedures, Survey Act, Physical and Land Use Planning Act.

ADC also requests for information on the official Government position for consideration bearing in mind legal risks the Corporation will be exposed to should there be no participation of all stakeholders.

Attached please find the sketch map showing the extent of encroachment areas by subdivision and Adjudication sections into gazetted titled Galana ADC.

Yours



HON. NICHOLAS SALAT  
**CHAIRMAN ADC**

Enc.

CC: Dr. Joseph Kinyua, EGH  
Head of Public Service  
Executive Office of the President  
Harambee House  
**NAIROBI**

Hon. Peter Munya, MGH  
Cabinet Secretary  
Ministry of Agriculture, Livestock,  
Fisheries and Co-operatives  
Kilimo House  
**NAIROBI**

Hon. Amb. Ukur Yattani, EGH  
Cabinet Secretary  
National Treasury  
**NAIROBI**

Prof. Hamadi Boda, PhD, CBS  
Principal Secretary  
Ministry of Agriculture, Livestock,  
Fisheries and Cooperatives  
State Department of Crop Development  
and Agricultural Research  
**NAIROBI**

Dr. (Eng.) Karanja Kibicho, CBS  
Principal Secretary  
Ministry of Interior & Coordination of  
National Government  
Harambee House  
P. O. Box 30510 – 00100  
**NAIROBI**

2/6/2021



2

## ETHICS AND ANTI-CORRUPTION COMMISSION

INTEGRITY CENTRE (Jakaya Kikwete/Valley Road Junction) P.O. Box 61130 – 00200, NAIROBI, Kenya  
TEL.: 254 (020) 4997000, MOBILE: 0709 781000; 0730 997000  
FAX: 254 (020) 2240954 EMAIL: [eacc@integrity.go.ke](mailto:eacc@integrity.go.ke) WEBSITE: [www.eacc.go.ke](http://www.eacc.go.ke)

When replying please quote:

EACC. 6/1/2 Vol VI (176)

"ADC 3"

2<sup>nd</sup> June 2021

**The Managing Director**  
Agricultural Development Corporation  
Development House  
P.O. Box 47101-00100  
**NAIROBI**

Dear Sir,

### RE: REQUEST FOR DOCUMENTS

The Commission is investigating allegations of fraudulent acquisition of Galana Ranch Block 1/1 in Kilifi County.

To facilitate our investigation, kindly but **urgently** provide us with the following documents in relation to the said land;

1. Lease plan.
2. A3 map showing various leases.
3. A3 map showing the encroached areas
4. Beacons and their coordinates
5. Historical background of Galana Ranch
6. Agreement of sale between Galana Game & Ranching Company and ADC
7. Any other relevant information in relation to Galana Ranch

Our officers **A. Weru** and **R. Syokau** will be available to collect the documents on or before **7<sup>th</sup> June 2021**.

Yours faithfully

  
**Abdulhamid E. Low, HSC**

**For: SECRETARY/CHIEF EXECUTIVE OFFICER.**

AFL/aw





## ETHICS AND ANTI-CORRUPTION COMMISSION

INTEGRITY CENTRE (Jakaya Kikwete/Valley Road Junction) P.O. Box 61130 – 00200, NAIROBI, Kenya  
TEL.: 254 (020) 4997000, MOBILE: 0709 781000; 0730 997000  
FAX: 254 (020) 2240954 EMAIL: [eacc@integrity.go.ke](mailto:eacc@integrity.go.ke) WEBSITE: [www.eacc.go.ke](http://www.eacc.go.ke)

When replying please quote:

**Our Ref: EACC. 6/1/2 Vol. VI (172)**

**The Managing Director**  
Agricultural Development Corporation  
Development House  
P.O. Box 47101-00100  
**NAIROBI**



**27<sup>th</sup> May, 2021**

Dear Sir,

**RE: INVESTIGATIONS ON IRREGULAR ACQUISITION OF PART OF GALANA RANCH BLOCK 1/1**

---

Reference is made to our letter dated **24<sup>th</sup> May 2021** Ref. **EACC. 6/1/2 Vol. VI (169)**.

As you are aware, the Commission commenced investigations on allegations touching on the above parcel, which according to the documents that you submitted to us is registered under your corporation.

As we continue to undertake this investigation, we kindly request your cooperation to put urgent measures in place to secure your interest in the said parcel of land.

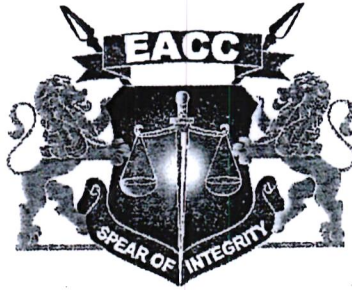
In the meantime, kindly appoint an officer to come to our Integrity Centre office to record a statement with us on the history and the current status of the land on **Monday, 31<sup>st</sup> May 2021** at **9.00am**.

Our officers, **A. Weru** and **R. Syokau** will be available to record the statement.

Yours faithfully

  
**DAVID K. TOO, OGW**  
**For: SECRETARY/CHIEF EXECUTIVE OFFICER**

*DKT/aw*



## ETHICS AND ANTI-CORRUPTION COMMISSION

INTEGRITY CENTRE (Jakaya Kikwete/Valley Road Junction) P.O. Box 61130 – 00200, NAIROBI, Kenya  
TEL.: 254 (020) 4997000, MOBILE: 0709 781000; 0730 997000  
FAX: 254 (020) 2240954 EMAIL: [eacc@integrity.go.ke](mailto:eacc@integrity.go.ke) WEBSITE: [www.eacc.go.ke](http://www.eacc.go.ke)

When replying please quote:

*JCS*

EACC. 6/1/2 Vol VI (169)

24<sup>th</sup> May 2021

The Managing Director  
Agricultural Development Corporation  
Development House  
P.O. Box 47101-00100  
**NAIROBI**

Dear Sir,

### RE: REQUEST FOR DOCUMENTS

The Commission is investigating allegations of fraudulent acquisition of Galana Kulalu in Kilifi and Tana River Counties.

To facilitate our investigation, kindly but **urgently** provide us with the following documents/information;

1. Ownership documents in respect to Land parcel No. Galana Block 1/1 at Galana in Kilifi.
2. Ownership documents of all your properties in Tana River County.
3. All correspondences on the said parcels of land.
4. Any other relevant information in respect to your properties in Kilifi and Tana River.

Our officers **A. Weru** and **A. Lekampalish** will be available to collect the documents on or before **26<sup>th</sup> May 2021**.

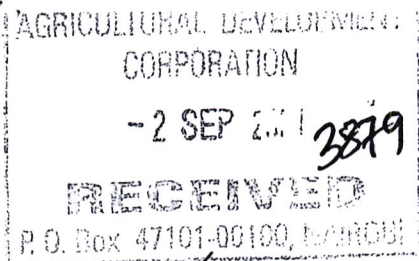
Yours faithfully

**Paschal K. Mweu**

**For: SECRETARY/CHIEF EXECUTIVE OFFICER.**

*PKM/aw*





## NATIONAL POLICE SERVICE

Telegrams: "CRIMINAL" Nairobi  
Email: cidmalindi@gmail.com  
Tel: 020343312, 0202603724.



SUB-COUNTY CRIMINAL  
INVESTIGATION  
HEADQUARTERS,  
P.O BOX 3,  
MALINDI.

### DIRECTORATE OF CRIMINAL INVESTIGATIONS

REF:DCI/SEC/4 /4/VOL.56/9

DATE: 1<sup>st</sup> September,2021

The Managing Director  
Agricultural Development Corporation (ADC)  
P.O. Box 47101 - 00100  
Development House Moi Avenue  
NAIROBI

### **RE: ENCROACHMENT OF GALANA KULALU LAND**


Reference is made to OB No.21 of 1/9/2020 reported at Malindi police station by Mr. Mulupi, a Manager at Galana Kulalu ranch and the Sub County Security and Intelligence Committee Meeting Malindi on 31<sup>st</sup> August,2021 based on a letter Ref.GAL/45/5/LMM dated 20<sup>th</sup> August,2021 from Galana ranch.

As it is evident the matter was reported one year ago and a team of investigators visited the alleged encroached area, however, investigations could not commence as the management at Galana Kulalu were unable to avail the following information/documents to the investigators.

1. A certified copy of the Title deed of the entire Galana Kulalu ranch.
2. Survey maps showing beacons and their coordinates and a detailed report from the Surveyor indicating the extent of encroachment.
3. Any other item/document that may assist investigators to conclude investigations in time.

Kindly but urgently avail these items and a liaison officer for the investigators to commence.

The cooperation by your good office will be highly appreciated.

  
(C.K. WANGUHU)  
SSCIO MALINDI

c.c. The Chairman SSSIC Malindi

The Senior Complex Manager - ADC Ranch



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Tel. +254-020-2848000  
Fax: +254-020-2243694  
E-mail: [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)  
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National Assembly  
Parliament Buildings  
P.O. Box 41842-00100  
NAIROBI, Kenya

REPUBLIC OF KENYA  
THE NATIONAL ASSEMBLY

REF: NA/DDCS/LANDS /2021/104

25<sup>th</sup> August 2021

**Prof. Hamadi Boga, CBS**  
Principal Secretary  
State Department for Crop Development and Agricultural Research  
Ministry of Agriculture, Livestock and Fisheries  
Kilimo House  
**NAIROBI**

Dear Prof Hamadi:

**RE: CONSIDERATION OF A PETITION BY RESIDENTS OF GARSEN REGARDING  
DEGAZETEMENT OF SPECIFIED AGRICULTURAL DEVELOPMENT  
CORPORATION (ADC) LAND IN GARSEN CONSTITUENCY**

The Departmental Committee on Lands is established pursuant to the National Assembly Standing Order 216(1) and is mandated to, among other things, "*investigate and inquire into all matters relating to the assigned ministries and departments as it may deem necessary, and as may be referred to it by the House*".

As you may be aware, the right to petition Parliament is anchored in Article 119 of the Constitution of Kenya. Pursuant to this provision, the Hon. Ali Wario Guyo MP presented a Petition to the National Assembly on behalf of the residents of Garsen in Tana River County regarding degazettement of specified Agricultural Development Corporation (ADC) land in Garsen Constituency. The Petition (copy forwarded herewith) was subsequently committed to the Departmental Committee on Lands for consideration and reporting to the House.

Against this backdrop, the Committee has scheduled to meet the Cabinet Secretary for Agriculture, Livestock and Fisheries on **Wednesday 15<sup>th</sup> September, 2021 at 10.00 am** to respond to the Petition. The meeting will be held in the Committee Room on **2<sup>nd</sup> Floor Continental House, Parliament Buildings**.

The liaison officers on this subject are Mr. Leonard Machira, who may be contacted on Tel. No. 0718379275 or email address: [ongegul@gmail.com](mailto:ongegul@gmail.com) and Mr. Ahmed Guliye, who may be contacted on Tel. No. 0723473758 and email address: [guliye27@gmail.com](mailto:guliye27@gmail.com)

Yours

A handwritten signature in black ink, appearing to be 'J. Ndombi'.

**JEREMIAH W. NDOMBI**  
**For: CLERK OF THE NATIONAL ASSEMBLY**

Copy to:

**Hon. Peter Munya, MGH**  
Cabinet Secretary  
Ministry of Agriculture, Livestock & Fisheries  
Kilimo House  
**NAIROBI**

Address all correspondence  
to the Managing Director

## AGRICULTURAL DEVELOPMENT CORPORATION

P.O. BOX 47101-00100, DEVELOPMENT HOUSE, TEL: 2250695/185, 020-3315746  
NAIROBI



Our Ref: MD/73/2/C/NS/VOL.3/Folio.20

3<sup>rd</sup> May, 2021

Clerk of the National Assembly,  
Clerk Chambers,  
National Assembly,  
Parliament Buildings,  
P. O. Box 41842 – 00100,  
**NAIROBI**

Mr. Leonard Machira  
ongegul@gmail.com  
Tel. No. 0718-379275  
**NAIROBI**

Mr. Ahmed Guliye  
Guliye27@gmail.com  
Tel No. 0723-473758  
**NAIROBI**

Dear Sir,

**SUBJECT: CONSIDERATION OF PETITION BY RESIDENTS OF GARSEN  
REGARDING SUB SUB-DIVISION OF THE AGRICULTURAL  
DEVELOPMENT CORPORATION (ADC) LAND AND STAKEHOLDER  
CONSULTATIONS ON GALANA KULAU FOOD SECURITY PROJECT**

Reference is made to your letter dated 28<sup>th</sup> April 2021 inviting the Chairperson of Agricultural Development Corporation to a virtual meeting on Tuesday 4<sup>th</sup> May, 2021 at 10 am to consider issues raised in the petition and the alleged fraudulent subdivision and allocation of Agricultural Development Corporation (ADC) land in Galana Kulalu, Kilifi County.

The mandate of the Corporation as anchored in the Agricultural Development Act Cap 444 Laws of Kenya, is to promote the production of Kenya's essential agricultural inputs which the Corporation may decide from time to time. These include seeds and pedigree and high

1 | Page

grade Livestock including, hybrid seed maize, cereal seed, potato seed, pasture seed, vegetable seed, pedigree and high grade cattle, sheep, goats, pigs, poultry and bees. The mandate emphasizes on the fulfilment of the Government's big four agenda of food, security and nutrition.

Against this background, in the year 2013 the Corporation took part in the Galana Kulalu food security project by entering into a lease agreement with the National Irrigation Authority so as to help the Government meet one of the pillars in its Big Four Agenda, being food security.

Beside the involvement in the project with the Government, the Corporation also entered into various engagements with private investors to lease out part of the subject land.

Our attention was drawn by the sentiments of Hon. Joseph Irungu, Principal Secretary for Water and Sanitation, in his interview carried out by Royal Media Citizen TV, on 2<sup>nd</sup> November 2020 in which he expressed the Government's desire to dispose of the above captioned properties in various ways including allocation to squatters in Kilifi County. In this regard, we understand that a committee, being the National Development Implementation Technical Committee (NDITCC) has been mandated to deal with the matter. This development came as a surprise since the land is subject to rights and obligations including lease agreements, which ought to have been considered before the land is dealt with in any way. Being custodians and having held the subject land in trust of the Government and engagements of private investors by the Corporation, it is prudent that the Corporation is involved in all aspects.

A letter Ref: MLPP/ADM/20/11 (2) dated 12<sup>th</sup> November 2020 from the Ministry of Lands and physical Planning requesting the Corporation to allow a group of surveyors to conduct preliminary activities in the quest to implement the food security project as directed by the Cabinet. The Corporation has not been informed formally of the directive by the Cabinet nor been involved in any of the consultative meetings.

## **RESPONSE TO PARTICULAR QUESTIONS**

### **QUESTION 1**

WAS AGRICULTURAL DEVELOPMENT CORPORATION BOARD OF DIRECTORS INFORMED OR INVOLVED IN SUB DIVISION PROCESS?

### **ANSWER**

Attached letter MD/11/C/NS of 15<sup>th</sup> November, 2020 addressed to the Hon. Peter Munya, MGH, Cabinet secretary, Ministry of Agriculture, Livestock, Fisheries and Cooperatives and copied to Dr. Joseph K. Kinyua, EGM, Head of Public Service, Office of the President, , Dr. (Eng) Karanja Kibicho, CBS, Chairperson, National Development Implementation Technical Committee (NDITCC), Ministry of Interior & Coordination of National Government, Hon. (Amb) Ukur Yatani, EGH, Cabinet Secretary, National Treasury & Planning.

Agricultural Development Corporation was neither informed formally nor been involved in any of the consultative meetings except when Agricultural Development Corporation attention was drawn by the sentiments of Hon. Joseph Irungu, Permanent Secretary for water and sanitation in his interview carried on by Royal Media Citizen TV, on 2<sup>nd</sup> November, 2020 in which he expressed the Government's desire to dispose of the above captioned properties in various ways including allocation to squatters in Kilifi County and received a letter Ref:MLPP/AND/20/11 (2) dated 12<sup>th</sup> November, 2020 from the Ministry of Lands and Physical Planning requesting the Corporation to allow a group of surveyors to conduct preliminary activities in the quest to implement the food security project as directed by the Cabinet.

### **QUESTION NO. 2**

WAS THE VERY WELL STIPULATED IN THE SUBSIDIARY LEGISTRATION UNDER ADC SPECIAL FARMS RULE (2001) FOLLOWED OF ADC ACT CAP 444 LAWS OF KENYA?

**Sec 2 (2) "No special farm shall be sold, subdivided, transferred or otherwise disposed off without the prior approval by way of a Bill of Motion to be approved by Parliament."**

**Sec 2 (3) "Any sale, subdivision, transfer or disposal of any special farm made in contravention of this rule shall be null and void, and no instrument relating to**

**such transaction shall be registered under any written law for the time being in force requiring the registration of such instrument.”**

**ANSWER**

No

**QUESTION 3**

WHAT ACTION DID THE ADC MANAGEMENT AND BOARD OF DIRECTORS TAKE?

**ANSWER**

Attached ADC letter MD/40/2/C/MB of 27<sup>th</sup> November 2020 addressed to Hon. Peter Munya, cabinet Secretary, Ministry of Agriculture, Livestock, Fisheries & Cooperatives and copied to Prof. Hamadi Boga, Principal secretary, State Department for Crop Development and Agricultural Research with copies of extract of the minutes of the Special Full Board meeting held at the ADC Boardroom in Nairobi on 26<sup>th</sup> November 2020 with ADC Board of Directors deliberations and resolutions.

**QUESTION 4**

WAS NATIONAL DEVELOPMENT IMPLEMENTATION TECHNICAL COMMITTEE (NDITC) MEETING EXECUTIVE BRIEF FORWARDED TO ADC FOR INFORMATION?

**ANSWER**

Yes, attached copy of minutes from Mr. Joseph Irungu, CBS, Principal Secretary, Ministry of Water, Sanitation and Irrigation refers.

**QUESTION 5**

ARE THERE OTHER ILLEGAL AND IRREGULAR ACTIVITIES TAKING PLACE IN GALANA KULALU ADC LAND AND IF SO WHAT IS THE GROUND POSITION?

**ANSWER**

Yes,

The sub-division and adjudication process taking place is neither as per the constitution, land adjudication, physical and land use planning act 2019, the Agricultural Development Corporation Act chapter 444, the Surveys Act Chapter 299, the Community Land Act 2016, the Land Control Act chapter 302, the Land Registration Act 2012, the Land Act 2012 nor following the laid down adjudication or subdivision procedures.

By December 2020 the subdivision process had already invaded an area of approximately **two hundred and fifty thousand acres (101,171 hectares)**. By the time the ADC Board of directors visited the land, subdivision process was going on and by 27<sup>th</sup> February 2021 the subdivision process had already encroached on ADC Land by **three hundred and one thousand, three hundred and fifty (301,350) acres (121,952 hectares)**. That means the illegal land buying companies or individuals are illegally subdividing the ADC Galana land at the rate of **twenty-five thousand (25,000) acres** per month followed by clearing of access roads.

#### **QUESTION 6**

WHAT ACTION DID THE MANAGEMENT OF ADC AND BOARD OF DIRECTORS TAKE AFTER NOTING THE ILLEGAL SUBDIVISION AND ADJUDICATION PROCESS AND INVASION OF **THREE HUNDRED AND ONE THOUSAND, THREE HUNDRED AND FIFTY (301,350) ACRES (121,952 HECTARES)** WORTH AT A MARKET RATE OF **KSHS. FIFTY THOUSAND (50,000/=) PER ACRE?**

**KSHS. FIFTEEN BILLION, SIXTY-SEVEN MILLION, FIVE HUNDRED THOUSAND (KSHS. 15,067,500,000/=)**

#### **ANSWER**

ADC Chairman's letter referenced MD/40/2/C/BM OF 9<sup>th</sup> April 2021 addressed to Farida Karoney, EGH, Cabinet Secretary, Ministry of Lands and Physical Planning, Dr. Nicholas Muraguri, CBS, Principal Secretary, Ministry of Land and Physical Planning, Gershom Otachi, Chairman, National Lands Commission, Director of Land Adjudication and Settlement, Director of Surveys, Kilifi County Commissioner, Kilifi County Adjudication Officer, Kilifi National County

Surveyor and copied to Dr. Joseph Kinyua, EGH, Head of Public Service, Hon. Peter Munya, MGH, Cabinet Secretary, Ministry of Agriculture, Livestock, Fisheries and Co-operatives, Hon. Amb. Ukur Yattani, EGH, Cabinet Secretary, National Treasury, Prof. Hamadi Boga, PhD, CBS, Principal Secretary, State Department of Crop Development and Agricultural Research, Dr. (Eng.) Karanja Kibicho, CBS, Principal Secretary, Ministry of Interior & Coordination of National Government.

### **QUESTION 7**

WHAT INTENTION AND STRATEGY IS ADC MANGEMENT AND BOARD OF DIRECTORS TAKING TO LEAVE ADC BETTER THAN YOU FOUND IT?

### **ANSWER**

Request Ministry of Lands to liaise with ADC and have the perimeter boundary established by the Director of Surveys to avoid overlap of adjacent land within established adjudication sections as well as respecting Land Act and Adjudication laid down procedures, Survey Act, Physical and Land Use Planning Act, request for information on the official Government position on ADC land and regular consultations with land related authorities whenever need arises as well as participation of all stakeholders.

### **QUESTION 8**

WHAT REQUEST OR ASSISTANCE WOULD YOU LIKE TO SUCCESSFULLY BRING ADC TO A HIGHER AND BETTER LEVEL LIKE OTHER SUCCESSFUL STATE CORPORATIONS?

### **ANSWER**

Revive the grading, organization structure and staff establishment, increase Agricultural farm produce and strategically come with a way forward on how ADC can create more revenue and food security in all ADC Farms. Parliament and line Ministry to budget and allocate ADC enough/available funds to revive what has been misappropriated before the government came to ADC Rescue.

Finally attached please find copies of;

1. ADC Chairman's letter reference MD/11/C/NS of 15<sup>th</sup> November 2020.

2. ADC Managing Directors letter reference MD/40/2/C/MB of 27<sup>th</sup> November, 2020 and Board of Directors deliberation on status and resolutions.
3. ADC Chairman's letter MD/40/2/C/BM of 9<sup>th</sup> April 2021.
4. Land, legal and partnership committee report on the status of invasion and sub division report of Galana Kulalu ADC land as well adjudication sections which may have extended into Galana ADC land.
5. National Development Implementation Technical Committee (NDITC) brief on implementation of Galana Kulalu food security project.
6. Two (2) copies of maps showing the status of the subdivided ADC Land in question.

Thank you for inviting me to discuss ADC land issues with the Departmental committee on land.

I sincerely feel privileged to have been invited by this honourable committee.

Thank you once more and May God bless you all and your honourable colleagues in other departmental committees.

Yours Faithfully,

**HON. NICHOLAS SALAT**  
**CHAIRMAN**

Enclosures

## **REPORT OF THE LANDS, LEGAL AND PARTNERSHIPS COMMITTEE**

### **ON THE STATUS OF INVASION AND SUB-DIVISION OF GALANA KULALU LAND**

#### **Introduction**

This report is about the status of illegal invasion and subsequent subdivision of ADC Galana Kulalu ( A Government land containing approximately 1,745,040 acres in total and located in Tana River and Kilifi counties).

#### **Members Present**

#### **Problem Statement**

The Board of Directors mandated the Lands, Legal and Partnerships Committee to visit Galana Kulalu land to ascertain the alleged invasion of 301,000 acres Galana Land and subdivision of the entire Kulalu land. As such, on 26<sup>th</sup> February 2021, the Committee accompanied by Surveyor Apollo Ojode visited Galana Kulalu land to assess the extent of invasion and sub-division of L.R. No. GALANA/RANCH BLOCK 1/1 measuring 1,500,000 acres and KULALU FARM LR NO. 14248 measuring 99,164 hectares (approximately 245,040 acres).

#### **Solution Approach**

The Committee left Nairobi on Friday 26<sup>th</sup> February 2021 and commenced its fact finding and technical assessment of the expansive Galana and Kulalu land on the morning of Saturday 27<sup>th</sup> February 2021 and concluded its fact finding mission on Sunday 28<sup>th</sup> February 2021 at 6.30 P.M. The committee was mandated to do the following:-

#### **Methodology**

- a) To carry out a fact finding mission on the alleged invasion of 301,000 acres of Galana to the titled cadastral gazzetted land.
- b) To ascertain the alleged sub-division of Kulalu land measuring 99,164 hectares (approximately 245,040 acres).
- c) To understand adjudication Process. For an adjudication Process to take place, the following process must be adhered to in which in the said illegal subdivision was not followed:

STEP	ACTION
1	The Cabinet Secretary (CS) gazettes adjudication areas through a notice in the Kenya gazette.
2.	Sub County Land Adjudication and Settlement Officer (SCLASO) receives a request for adjudication process from the residents/county government/local leaders and forwards the same to the County Assemblies for consideration.
3.	Approval letter by County Assembly sent to SCLASO.
4.	<b>Perimeter boundary establishment of adjudication sections:</b> The land adjudication officers (LAOs) in charge of the adjudication areas leads the team to physically walk the boundaries of the adjudication sections and mark them on the relevant topographical map(s).
5.	<b>Adjudication section clearance:</b> The boundaries as picked in 4 above are submitted to the Senior Plans Records Office (SPRO) of the department of land administration through the Director of Land Adjudication and Settlement (DLAS) for clearance. This is to confirm if there are any registration commitments on the proposed adjudication sections. The SPRO then issues a clearance letter to the DLAS to proceed with the adjudication process.
6.	<b>Procurement of satellite images:</b> On getting the clearance from SPRO, DLAS initiates the procurement process of satellite imagery. The requisition is first sent to the Director of Surveys (DOS) for the preparation of index diagrams which are subsequently submitted to Supply Chain Management (SCM) for procurement. Currently, the satellite images are sourced from the Regional Centre for Mapping of Resources for Development (RCMRD).
7.	<b>Establishment of the adjudication section:</b> SCLASO convenes a public <i>baraza</i> within the area to be adjudicated. Declaration notice is read out during the <i>baraza</i> then circulated countrywide through print, electronic media, posters, etc. The notice gives a seven (7) day notice to commence demarcation.
8.	<b>Appointment of adjudication committee:</b> A team of between 10-15 members, residing in the adjudication section are appointed to the land adjudication committee by the land adjudication officer for the adjudication area.
9.	<b>Submission of interest and demarcation of parcels:</b> The landowners submit their interests by showing their boundaries which are recorded by the Land Adjudication and Settlement Assistants (LASAs) who are assisted by the land adjudication committee. The details are entered in a demarcation book.
10.	<b>Committee cases:</b> Any disputes arising during the demarcation process are submitted to the committee for resolution. The disputants are required to pay a fee (Kshs 150) for the cases which are entered in a case register. The LASAs serve as executive officers recording the case proceedings.
11.	<b>Arbitration board cases:</b> Parties not satisfied with the committee's decisions can appeal to the arbitration board. The disputants are required to pay a fee (Kshs 300) for the cases which are entered in a case register. The LASAs serve as executive officers recording the case proceedings.
12.	<b>Preparation of adjudication records for each parcel:</b> Upon the completion of demarcation and resolution of committee and arbitration board cases, the

STEP	ACTION
	adjudication records are prepared for each parcel). Adjudication records are accountable documents which contain all the individual parcels' details which includes name, contact, parcel number, etc.
13.	<b>Publication of adjudication register:</b> The SCLASO convenes a public baraza to read the notice of completion of the demarcation process. He/she then displays the adjudication register which comprises the demarcation maps (satellite imageries) and adjudication records for inspection by the public at convenient locations within the adjudication section. The duplicate adjudication records are forwarded to the DLAS immediately the register is published. Any person who feels that the register is incorrect or incomplete in any manner can file an objection to the Adjudication Officer within sixty (60) days from the date of publication of the notice.
14.	<b>Hearing of objections:</b> The objections as filed are entered in objection registers. They are then heard and proceedings recorded by land adjudication officers. The original adjudication records for parcels with objections are forwarded to the DLAS upon completion of the objections with relevant amendments. In a scenario where there is no objection to the register, both the original and duplicate adjudication records are forwarded to the DLAS and the demarcation maps to the DOS.
15.	Upon receipt of adjudication maps at DOS main registry, taken to DOS for direction
16.	Demarcation maps forwarded to Head of Adjudication Division
17.	Demarcation maps forwarded to NTC-Survey section for checking
18.	Demarcation maps Scanned and digitized
19.	Vectorization (generation of polygons) of digitized maps
20.	<b>Generation of queries:</b> Incomplete parcels, double numbering, parcels without access or numbers are identified as queries requiring field re-visits)
21.	Adjudication sections with queries are returned to DLAS for redress, i.e. resolution of the queries
22.	If there are no queries or after all queries are resolved, Preliminary Index Diagrams (PID's) are prepared and published. Area Lists are also generated,
23.	The PID's and Area Lists are forwarded to DLAS.
24.	Upon the receipt of the PID's and Area Lists, the DLAS issues certificate of finality and forwards the following to the Chief Land Registrar (CLR) for preparation and issuance of title deeds: <ul style="list-style-type: none"> <li>• Original adjudication records,</li> <li>• PID's</li> <li>• Area Lists,</li> </ul>
25.	<b>Appeals to the CS:</b> Persons not satisfied with the ruling of the Adjudication officers upon hearing of the objection cases may appeal to the CS upon payment of a fee (Kshs. 650). The CS gives delegated authority to Deputy County Commissioners (DCCs) to hear the appeals. The DCCs forward the appeal case files to the DLAS who prepares the implementation orders and forwards the same to the Chief Lands Registrar (CLR) for action.

26. **Judicial Proceedings:** Persons not satisfied with the decision of the CS in the appeals may resort to judicial proceedings in court.

d) To prepare a report for consideration by the full board.

### **FINDINGS**

1. The Committee found out that there was a huge invasion of Galana land with very few settled people and cultivated areas. The beacons are entirely covering the 301,000 acres. We discovered that from an earlier report of Surveyor Cherop, Ojode and the Chairman of the Committee made in November, 2020, the ground survey invasion was to an extent of 250,000 acres. We established that by the end of January 2021, the invasion had increased to 301,000 acres (121,951 hectares). Our ground visit confirmed the same but noted that the invasion was probably increasing.
2. We realized that access roads are being opened to service the sub-divided portions.
3. Bush clearing and cultivation had been done and some individuals have settled, built houses and planted cassavas and pineapples on the farms.
4. We found out that an individual had excavated a dam on our Galana land. We could not establish whether he had any authority or agreement with the Corporation.
5. In respect of Kulalu land, we established some fresh beacons and cutlines on the ground suggesting that sub-division had started on the land. From technical observations, the beacons and cutlines were meant for physical planning of the area and therefore there is need to find out if the said process is ongoing since it should not go on without the Board's and Parliamentary approval as specified in Rule 2(2) and 2(3) of Agricultural Development Corporation (Special Farms) Rules, 2001, (Rev. 2012).

### **OTHER FINDINGS**

6. From a copy of title deed for Galana land seen by the Committee, we established that Agricultural Development Corporation has a subsisting

lease of 45 years with effect from 1<sup>st</sup> November 2011 from the Government of Kenya. Agricultural Development Corporation had subsisting sub-leases to Braken Agricultural Limited for 16 years with effect from 1<sup>st</sup> February 2012 and sublease to Peach Tree Limited for 20 (twenty) years with effect from 1<sup>st</sup> November 2011. The sub-lease is not specific on the acreage and portion let to the sub-lessees. The rent consideration is Kshs. 300 per annum in respect of Braken Agricultural Limited and Kshs. 10,000 per annum for Peach Tree Limited. Curiously the sublease to Peach Tree Limited was for 16 years with effect from 1<sup>st</sup> March 2011 at a rent consideration of Kshs. 2,000,000 per annum but was changed to 20 years at Kshs. 10,000/= per annum upon renewal of the lease on 1<sup>st</sup> November 2011.

7. We also found that there was a lot of excavation of murram and harvesting of stones on the land.

### **OBSERVATIONS**

1. The invasion and sub-division of Galana and Kulalu land offends the provisions of Rule 2(2) of the Agricultural Development Corporation (Special Farms) Rules, 2001 (Rev. 2012) as neither the Board nor Parliament had approved the purported alienation, adjudication and sub-division.
2. The adjudication process has not followed the laid-out procedures of land adjudication process.
3. The joint ventures do not conform to the Treasury Public Private Partnership.
4. The registration of leases by the Land Registrar do not indicate acreage and location of the leased area. There was need to scrutinize all leases in respect of the said land, whether registered or not.
5. The Committee needed to verify if the process of leasing the land was competitively done in line with procurement laws.
6. We found out that there was no economic activities on our land and the land is largely idle and fallow with bushes and thicket save for a few cattle and goats reared by the Corporation.

7. We found that some information and documents were not disclosed on time to aid the Committee to make informed decisions.
8. We found that there were no clear systems in the organization and apparent disconnect between the regions and headquarters.

### **RECOMMENDATIONS**

1. The Committee recommends that a search and inventory of all title deeds, leases and joint ventures in respect of Galana Kulalu land be undertaken to establish the current status.
2. There is need to develop and operationalise standard operating procedures in respect of lands, legal and partnerships.
3. An ad-hoc committee needs to be formed to follow up on implementation of Board Resolutions.
4. The Board should seek audience with the Cabinet Secretary, Agriculture, Livestock and Fisheries to discuss the lands and partnership issues of the Corporation especially the controversy surrounding the Galana Kulalu land. The Board seeks the good will and intervention of His Excellency the President on the weighty matter of Agricultural Development Corporation lands.
5. We need to roll out change management within the organization.
6. The Board to write a letter to Director of Land Adjudication and Settlement and District Land Adjudication Officer raising objection to the adjudication our land in Galana and sub-division of our Kulalu land.
7. All Agricultural Development Corporation farms especially Galana Kulalu should have re-establishment of its beacons using modern survey equipment (Real Time Kinematic Survey Equipment).

**Dated this 28<sup>th</sup> February 2021**

**EPHANTUS MURAGE**  
**CHAIRMAN, LANDS, LEGAL &**  
**PARTNERSHIPS COMMITTEE**

RE: GALANA ADC LAND ENCROACHMENTS THROUGH IRREGULAR /  
ILLEGAL SUBDIVISION PROCESS INTENDED FOR LAND  
ADJUDICATION AND SETTLEMENT, AND ILLEGAL SUBDIVISION BY  
LAND PRIVATE BUYING COMPANIES:

The Adjudication process require the locals/community to approach the district ( National Sub County ) land adjudication and settlement officer requesting for rights to own the land.

The Sub County land adjudication and settlement officer writes to the Director of settlement and adjudication on the matter where the Director writes to the senior principal records officer for status confirmation of the area.

Once checking is done, an authority is given to the Sub County land adjudication and settlement officer to proceed, and in conjunction with the National County surveyor, the perimeter boundary of the Adjudication section is properly described.

A declaration meeting is the held at the Adjudication section where a committee is chosen to foresee the process together with the surveyor and demarcation officer. The declaration is made public to ensure whoever has interest on the mentioned section presents his/her case.

After this, the surveyor, demarcation officer and the committee members begin the process of plot showing by walking along proposed boundaries, picking and plotting as well as recording of the identification details of the beneficiaries.

Finally, a map showing the plot numbers and an area list is prepared as well as the adjudication records showing the plot number, name of beneficiary and identification number prepared too.

Once this is done, a publication meeting is called to notify the members that the adjudication is complete and therefore the beneficiaries are free to verify the maps and the adjudication records.

This is usually done in writing and the beneficiaries are given 60 days to verify the maps and adjudication records. It is within this period too where objection cases are heard and determined.

The maps are then forwarded to the National County surveyor for checking, and on ward forwarding to the Director of surveys for checks, Authentication and maps publication.

The adjudication records are forwarded to the Director of land adjudication and settlement who thereafter forwards to the Chief Land Registrar for titles to be prepared.

For the Subdivision by Land buying Companies , the private land companies are required to follow the legal process of availing ownership Title documents Registered under their Company names and their identification details either showing , registered Ownership, agreements or contracts with registered owner ie ADC Board of Directors and ADC Management, proposal of Physical Part Development Plans signed by ADC Authorised person, addressed to National Director Physical Planning, / National County Physical Planner, subsequently write to Director of Surveys, Director Lands, National County Surveyor and National County Land Officer to determine the land in question status before any Subdivision approval and Subdivision Survey process.

Since the ADC land is under fixed Boundaries to an accuracy of 3 centimetres the Subdivision process require either a Government Surveyor under supervision of Director of Surveys or a Registered Licensed Surveyor under Survey Act CAP 299 or the Registered Licensed Surveyor's Assistant approved by Land Survey's Board ( LSB ) but under supervision of the principal ( Registered Licensed Surveyor ), Theoretical Computations respecting authenticated Survey Plan the natural and man made structures reflected on approved Part Development Plan, followed by establishment and re-establishment of all removed / disturbed perimeter Boundaries beacons to avoid encroachments into neighbouring properties. After the ground Subdivision survey field work is complete, the Surveyor walk along all the Boundaries of the resultant parcels and the Registered owners / owner signs the beacons certificate confirming placed Physical resultant Boundaries beacons.

This is followed by forwarding approved Subdivision letters/ PDPs/Director of Lands conditions, theoretical computation data, field work, beacon certificate

signed by registered owner or authorized agent in presence of the Surveyor and Survey plans to Director of Surveys for numbering the new parcels, preliminary Survey Checks, Computational Final Checks and Authentication to allow for preparation of Deed Plans or Registry Index Maps ( RIMs ) for resultant Title Registration transferable to second parties as per agreement/wish of the owner which does not apply to special gazetted ADC land unless in compliance with Agricultural Development Corporation Act Cap 444 ( special Farms) Rules section 2 (2) and section 3 (3).

For ADU KAMALE , ADU CHAMARI AND WAKALA ADJUDICATION  
SECTIONS.

The above sections were declared and the process to acquire title deeds has been on going.

For baricho dakacha, title deeds are ready though the publication of the maps has not been finalized.

For adu chamari and adu dakacha, the demarcation exercise on the ground is ongoing. The maps and adjudication records have not been submitted for checking.

Note: Not verified but rumour has it that the exercise on the above adjudication sections are being carried out by a private surveyor who was hired by the county government of kilifi.

Instant ADC Technical ground Surveyors checks, ADC Board of Directors and ADC Management ground visit checks noted that the private surveyor NEITHER does /did follow the described area by first identification of ADC perimeter Boundaries NOR walked along the ADC Boundaries with ADC Surveyor or Galana ADC Management.

Some random checks indicate that the ongoing demarcation encroaches into the galana ranch parcel number 1. Parcel no. 1 as it appears in F R No. 119/86. This approximate area of encroachment is approximately 121951.9 ha (Approximately Three Hundred and One Thousands, Three Hundred Fourty Nine Decimal Seven Three (301349.73) Acres.

This is arbitrary since ADC has neither been informed nor supplied / received the maps/data from the private surveyor on site, communication of intended Survey work by Cabinet Secretary, Permanent Secretary Lands, National Land Commission, Director of Lands Adjudication and Settlement Director of Surveys, County Commissioner, National County/Subcounty Land Adjudication and Settlement Officer and National County Surveyor.

Address all correspondence  
to the Managing Director



**AGRICULTURAL DEVELOPMENT CORPORATION**

P.O. BOX 47101-00100, DEVELOPMENT HOUSE, TEL: 2250695/185, 020-315746  
NAIROBI

REF: MD/11/C/NS

15<sup>th</sup> November, 2020

The Hon. Peter Munya, MGH  
Cabinet Secretary,  
Ministry of Agriculture Livestock Fisheries and Cooperatives  
P.O. Box 34188-00100,  
**NAIROBI**

Dear Sir,

**REF: AGRICULTURAL DEVELOPMENT CORPORATION LAND IN GALANA AND  
KULALU- BLOCK 1/1 AND LR NO. 14248 KULALU**

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Reference is made to the above matter.

As you are well aware, the mandate of the Corporation as anchored in the Agricultural Development Act Cap 444 Laws of Kenya is to promote the production of Kenya's essential agricultural inputs as the Corporation may decide from time to time. These include seeds and pedigree and high grade livestock including, hybrid seed maize, cereal seed, potato seed, pasture seed, vegetable seed, pedigree and high grade cattle, sheep, goats, pigs, poultry and bees. The mandate emphasizes on the fulfilment of the Government's big four agenda of food security and nutrition.

Against this background, in the year 2013 the Corporation took part in the Galana Kulalu food security project by entering into a lease agreement with the National Irrigation Authority so as to help the Government meet one of the pillars in its Big Four Agenda, being food security.

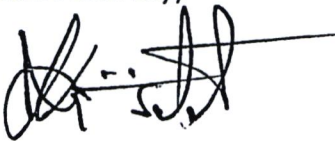
Beside the involvement in the project with the Government, the Corporation also entered into various engagements with private investors to lease out part of the subject land.

Our attention has been drawn by the sentiments of Hon Joseph Irungu, Permanent Secretary for water and sanitation in his interview carried on by Royal Media Citizen Tv, on 2<sup>nd</sup> November 2020 in which he expressed the Government's desire to dispose of the above captioned properties in various ways including allocation to squatters in Kilifi County. In this regard, we understand that a Committee, being the National Development Implementation Technical Committee (NDITCC) has been mandated to deal with the matter. This development comes as a surprise since the land is subject to rights and obligations including lease agreements, which ought to be considered before the land is dealt with in any way. Being custodians and having held the subject land in trust of the Government and the engagements of private investors by the Corporation, it is prudent that the Corporation be involved in all aspects.

Further we are seized of a letter Ref MLPP/ADM/20/11 (2) dated 12<sup>th</sup> November, 2020 from the Ministry of Lands and Physical Planning requesting the Corporation to allow a group of surveyors to conduct preliminary activities in the quest to implement the food security project as directed by the Cabinet. The Corporation has not been informed formally of the directive by the Cabinet nor been involved in any of the consultative meetings.

The purpose of this letter therefore is to request for information on the official Government position for consideration, bearing in mind legal risks that the Corporation will be exposed to should there be no participation of all stakeholders.

Yours Faithfully,



**HON NICK SALAT**  
**CHAIRMAN, AGRICULTURAL DEVELOPMENT CORPORATION**

CC

Dr. Joseph K Kinyua, EGH  
Head of Public Service  
Office of the president,  
NAIROBI.

Dr (Eng.) Karanja Kibicho, CBS  
Chairperson  
National Development Implementation Technical Committee(NDITCC)  
Ministry of Interior & Coordination of National Government  
Harambee House, Harambee Avenue  
P.O Box 30510,00100  
NAIROBI.

Hon (Amb) Ukur Yatani,EGH  
Cabinet Secretary, National Treasury & Planning  
Treasury Building, Harambee Avenue  
P.O Box 30007-00100  
NAIROBI.

Address all correspondence  
to the Managing Director

## AGRICULTURAL DEVELOPMENT CORPORATION

P.O. BOX 47101-00100, DEVELOPMENT HOUSE, TEL: 2250695/185, 020-315746  
NAIROBI  
Our Ref: MD/40/2/C/MB



27<sup>th</sup> November, 2020

Hon. Peter Munya, MGH  
Cabinet Secretary  
Ministry of Agriculture, Livestock, Fisheries & Cooperatives  
**NAIROBI**

Dear Sir,

### **RE: AGRICULTURAL DEVELOPMENT CORPORATION GALANA KULALU LAND**

Reference is made to the above matter.

The brief facts of the matter is that Agricultural Development Corporation (ADC) is the registered land owner of Galana Block 1/1 (Tana River County) and LR 14248 (Kilifi County) with an acreage of 1,500,000 acres for the Galana Ranch and 239,487 acres for the Kulalu Ranch. ADC is therefore the official custodian of this Government property complete with title deeds in its name.

However, the Government in 2013 identified Galana and Kulalu ranches for purposes of food security Project (GKFSP). This led to lease agreement between ADC and the then National irrigation Board (NIB), where NIB was paying for the land rent.

The Corporation received a letter on 17<sup>th</sup> November, 2020 from the principal Secretary Ministry of Lands and Physical Planning to allow surveyors into the ADC Land to demarcate for purposes of the implementation of the food security project. The letter stated that it was a cabinet directive to implement this activities. The Surveyors are in the farm as I write this letter.

In view of the above, a special Board meeting was held on the 26<sup>th</sup> November 2020 for deliberation and the agenda for discussion included the said letter from Ministry of lands and physical planning which instructed ADC to allow surveyors entry into ADC land. The board members were taken through the ADC Governing Act CAP 444.

The Corporation (ADC) as a state body has been mandated to manage and safeguard the national farms which is very well stipulated in the subsidiary legislation under ADC special Farms Rules (2001) which provides as follows: -

**Sec 2 (2) "No special farm shall be sold, subdivided, transferred or otherwise disposed off without the prior approval by way of a Bill of Motion to be approved by Parliament."**

**Sec 2 (3) "Any sale, subdivision, transfer or disposal of any special farm made in contravention of this rule shall be null and void, and no instrument relating to such transaction shall be registered under any written law for the time being in force requiring the registration of such instrument."**

However, ADC holds this land for the Governments strategic purposes and that's why they were gazetted as special farms. In the event that ADC or the government wishes to allocate some of the gazetted land, the following steps need to be noted as per the law to avoid future litigation against the current board of directors who did not participate in the process.

1. A board resolution indicating the need and the reason why ADC wishes to sell or allocate some of its land.
2. The same board resolution should be communicated to the line Ministry and Treasury for concurrence.
3. ADC should also seek authority from national land commission for concurrence.
4. The board resolution and authority from national land commission is taken to national assembly for debate and direction.

After a long deliberation by the full board the recommendations of lands, legal and partnership committee of the board was adopted and the following resolutions made;

1. The Chairman to follow up and organize a meeting with the Minister for Agriculture, Livestock, Fisheries and Cooperatives to be advised on the termination of Leases.
2. Environmental assessment be undertaken to avoid wildlife/human conflict.
3. The Management to seek Governments advise on relocation of animals and assets owned by ADC in case the Land is demarcated for settlement.
4. The Management to seek advice from Government on the clearing of Kshs 1.3 billion debt which was expected to be financed from Galana/Kulalu.
5. It was also noted that the lease holders who are in court are in court because ADC terminated their leases. The Management to seek advice from the Government in compensating all lessee's breach of contract agreement including the current leases and those which have been terminated but went to court and are in court due to ADC terminating their leases.
6. There is need for inclusion of ADC in such decision-making processes since ADC holds official institutional memory touching on all records and history.
7. Disposal of all the Galana/Kulalu land will end up with early retirement or retrenchment of two hundred and fifty (250) staff on the ground.
8. The Management to share the advice received from the attorney General for further deliberations.

Attached is the letter from The Principal Secretary, Ministry of Lands and Physical Planning and Board Extract for ease of reference.

Yours faithfully,

  
MOHAMED BULLE

**AG. MANAGING DIRECTOR**

**Attached:**

CC: Prof. Hamadi Boga, PhD, CBS  
Principal Secretary  
State Department for Crop Development and Agriculture Research  
Ministry of Agriculture, Livestock, Fisheries and Cooperatives  
**NAIROBI**

Address all correspondence  
to the Managing Director

## AGRICULTURAL DEVELOPMENT CORPORATION

P.O. BOX 47101-00100, DEVELOPMENT HOUSE, TEL: 2250695/185, 020-315746  
NAIROBI



### **EXTRACT OF THE MINUTES OF THE SPECIAL FULL BOARD MEETING HELD AT THE ADC BOARDROOM IN NAIROBI ON 26<sup>TH</sup> NOVEMBER, 2020**

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#### **PRESENT**

- |     |                        |   |                 |
|-----|------------------------|---|-----------------|
| 1.  | Hon. Nicholas Salat    | - | <b>Chairman</b> |
| 2.  | Mr. Zephania Yego      | - | Director        |
| 3.  | Hon. Lydia Ntimama     | - | Director        |
| 4.  | Hon. David Karithi     | - | Director        |
| 5.  | Eng. Jemutai Barkebo   | - | Director        |
| 6.  | Mr. Ephantus Murage    | - | Director        |
| 7.  | Ms. Jean Njiru         | - | Director        |
| 8.  | Ms. Lina Nduta         | - | Director        |
| 9.  | Ms. Elizabeth Shungula | - | Director        |
| 10. | Dr. Geoffrey Mutai     | - | Director        |
| 11. | Mr. Richard Ngomo      | - | Director        |
| 12. | Mr. Mohamed Bulle      | - | Ag. MD          |

#### **IN ATTENDANCE**

1. Mr. Chrislogous Makokha – Rep- Inspectorate of State Corporations
2. Ms. Lilian Kosgey – Legal Officer 1

#### **MIN 16/SB/26/11: LANDS, LEGAL & PARTNERSHIP REPORT**

##### **a) Deliberate on the Status of Galana Kulalu Land.**

It was reported that the Corporation had received a letter from the Ministry of Lands and Physical Planning to allow surveyors into the ADC Land to demarcate for purposes of the implementation of the food security project.

The Board noted that the Corporation had not been involved nor consulted on the ongoing or involvement of the Ministry of Lands and Physical Planning or any other Government agency.

It was reported that the Managing Director had been appointed in a technical committee to oversee the implementation of the Galana Kulalu food security project.

The Board noted that all communications made by the Government agencies to ADC, should be through the parent ministry.

It was further noted that the Chairman had written to the parent ministry seeking the Government's position on Galana Kulalu which is yet to elicit a response.

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Website: [www.adc.or.ke](http://www.adc.or.ke)

Email: [adc.mdsoffice@gmail.com](mailto:adc.mdsoffice@gmail.com) | [mdsoffice@adc.or.ke](mailto:mdsoffice@adc.or.ke)

ISO 9001:2008 Certified

The Board affirmed on its position to protect the property of the Corporation and emphasized on the need of all procedures in alienation of Public Land being complied with.

Following deliberation, **the following resolutions were made:**

1. Disposal of all the Galana/Kulalu land will end up with early retirement or retrenchment of two hundred and fifty (250) staff on the ground.
2. The Management to inform the Parliamentary Agriculture Committee on the Board's position on the Galana/Kulalu Land.
3. The Management to appraise the Board on the outcome of the Technical Committee meetings.
4. Environmental assessment to be undertaken to avoid wildlife/human conflict.
5. The management to seek Governments advise on relocation of animals and assets owed by ADC incase the Land is demarcated for settlement.
6. The Management to seek advise from Government on the clearing of ksh 1.7 billion debt.
7. The management to seek advice from Government in compensation of all lessees for breach of the agreement.
8. The Board to seek inclusion of ADC in all the decision making processes from the Minister Agriculture, Livestock, Fisheries and Cooperatives.

The resolution was proposed by Mr. Richard Ngomo and seconded by Mr. Zephania Yego.

**IT IS HEREBY CERTIFIED** that the above is a true extract from the Minutes of the Special Full Board meeting of Directors of the Corporation **AND IT IS FURTHER CERTIFIED** that a quorum of Directors was present throughout the meeting, and that the resolution set forth above was duly passed in accordance with and in compliance with the Agricultural Development Corporation Act Chapter 444 of the Laws of Kenya and the State Corporations Act Chapter 446 of Laws of Kenya.

SIGNED: .....  
  
**DIRECTOR**

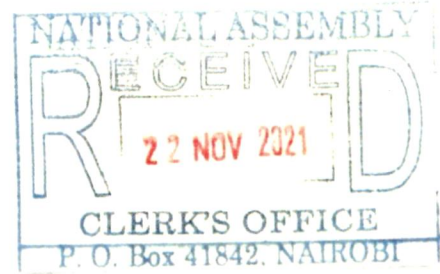
.....27/11/2020  
**DATE**

SIGNED: .....  
  
**DIRECTOR**

.....27/11/2020  
**DATE**

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**Corporation Seal**



MINISTRY OF LANDS AND PHYSICAL PLANNING

D/O

RESPONSE TO THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON LANDS

27/11/21

Honourable Chair,

Pursuant to a letter Ref. NA/DDCS/LANDS/2021/113 dated September 9, 2021, the Committee requested the Cabinet Secretary Ministry of Lands and Physical Planning to respond to a petition by Hon. Ali Wario, MP, Garsen Constituency on behalf of residents of Garsen Constituency in Tana River County regarding degazettement of Agricultural Development Corporation land in Garsen Constituency.

Leonard Machua

The Petition

to facilitate consideration  
27/11/21

Honourable Chair,

The petitioners state that Galana Ranch Scheme measuring approximately 1.5 Million acres was established in 1968 as a game and trading company before it was acquired by the Government through the Agricultural Development Corporation (ADC) to:

- i) Provide a buffer zone between Tsavo National Park and surrounding communities
- ii) Undertake beef ranching
- iii) Off-take management during drought
- iv) Undertake production of biogas

They state that through the intervention of H.E. Retired President Mwai Kibaki in 2006 and H.E. President Uhuru Kenyatta in 2013, ADC was directed to release 250,000 acres to residents of Assa and Kone Locations near Tsavo East National Park with pastoralists being granted access to River Galana Watering Corridor to water their livestock.

According to the petitioners however, there is a proposed sub-division scheme plan proposing subdivision of the Galana Ranch as follows:

- i) 100-acre blocks totalling 200,000 acres categorised as small scale
- ii) 10-acre blocks totalling 300,000 acres categorised as a settlement schemes

- iii) 10,000-acre blocks totalling 400,000 acres categorised as large scale
- iv) 5000-acre blocks totalling 200,000 acres categorised as medium scale 1
- v) 1000-acre blocks totalling 200,000 acres categorised as medium scale 2.

The petitioners aver that the proposed subdivision will adversely affect the entire community which primarily relies on the land to graze the large number of livestock due to the inadequate grazing land. They contend that the 250,000 acres earmarked for the community is inadequate and propose that the acreage be increased to atleast 600,000 acres in view of the demand for grazing land.

They claim that efforts to have the proposed sub-division scheme plan revised by the relevant authorities have not borne fruits. They have therefore filed the petition to request the Committee to:

- i) Intervene to facilitate timely degazettement of the said land to convert it to community land for grazing and related communal use by residents of Assa and Kone locations and to facilitate the degazettement of the River Galana Watering Corridor on both sides of the Tsavo East National Park and ADC lands
- ii) Intervene to facilitate the increment of the Galana Ranch allocation from 250,000 acres to 600,000 acres and to guarantee that at least 25% of all beneficiaries from all land block categories are local residents of Garsen Constituency
- iii) Make any further orders deemed appropriate for the petition.

### **Response**

**Honourable Chair,** I wish to respond as follows-

The Galana – Kulalu Food Security Project (GKFSP) comprises two swathes of land registered under two separate titles. The first title is Grant No. 44891 (L.R. No.14248) measuring 99,164 Ha (245,044.16 Acres). It lies largely within Kilifi County. The second parcel is registered as Galana Ranch Block 1/1 measuring 607,042 Ha (1,500,061.5 Acres). The parcel lies largely within Tana River County. The total acreage is 706,206 Ha (1,745,106 Acres). Thus, the Galana Ranch measures 1,500,061.5 acres and not 1.75 million acres as alleged by the petitioners.

For avoidance of doubt, the ongoing planning and survey work is solely being carried out on the Kulalu Ranch (L. R. No. 14248) which is within Kilifi County and measures 245,044.16 Acres. The allegations of sub-divisions having been carried out on the Galana Ranch are therefore inaccurate, as no planning and settlement of beneficiaries has been conducted by the Government on the said land. The same applies to claims of the local community being allocated only 250,000 acres.

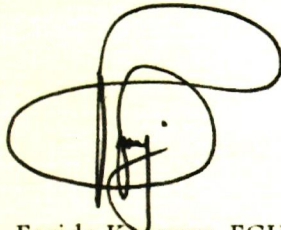
The Government will commence the planning and survey of the land under Galana Ranch upon completion of logistical arrangements and stakeholders will be duly notified before commencement of the activities.

On the issue of degazettment of the land and subsequent change to community land status, the Ministry wishes to clarify that the Galana – Kulalu Food Security Project (GKFSP) is one of the Government's key-targeted agricultural reforms to promote best practice for achievement of food and nutritional security. As such, the project aims at enhancing agricultural practises for increased food security while creating a sustainable, well-planned ecology for the harmonious co-existence of farmers, pastoralists and the wildlife in the area. It is also important to note that the communities to be settled on the land upon completion of planning and survey processes will require various facilities, infrastructure and services.

In this regard, a spatial development framework and comprehensive infrastructure provision is crucial for the development of the Galana Ranch. The Government is best suited to guide these developmental processes while maintaining ownership of the land.

Nevertheless, given constitutional and legal provisions on stakeholder participation in land use planning processes, the community of Garsen, will be engaged in the planning of Galana Ranch. While the outcomes of the planning, survey and settlement processes of both Kulalu and Galana ranches will be a national government decision, there will be due consideration of the interests, needs and welfare of the community.

**Honourable Chair,** I submit.



Farida Karoney, EGH  
**CABINET SECRETARY**

**November 17, 2021**



**MINISTRY OF LANDS AND PHYSICAL PLANNING**  
**OFFICE OF THE PRINCIPAL SECRETARY**

Tel: +254(0)20 2718050  
Fax: +254(0)20 2724470  
When replying please quote

Ardhi House  
1<sup>st</sup> Ngong Avenue  
P.O. Box 30450 - 00100  
NAIROBI, KENYA

**Ref: MLPP/ADM/20/11(2)**

**12<sup>th</sup> November 2020**

**Muhammed Bulle**  
Managing Director  
Agricultural Development Corporation (ADC)  
Galana Kulalu Farm  
**NAIROBI**



Dear *MD*

**RE: IMPLEMENTATION OF GALANA/KULALU FOOD SECURITY PROJECT**

The Ministry of Lands and Physical Planning is in the process of implementing activities related to Galana/Kulalu Food Security Project in line with directive from the Cabinet. The activity will commence on **Monday 16<sup>th</sup> November 2020**.

In this regard, I wish to inform you that a group of Surveyors and Physical Planners will be in Galana/Kulalu to conduct preliminary activities and data collection.

The coordination of all the activities will be under Regina Njue, Surveyor Mobile No.0722630970 and Yusuf Mohammed Assistant Secretary Mobile No.0720661373.

The purpose of this letter is to request you to accord the officers all the necessary support.

Yours *Sincerely*  
*nmj*

Dr. Nicholas Muraguri  
**PRINCIPAL SECRETARY**

**Copy to: Cabinet Secretary**  
Ministry of Lands Physical Planning  
Ardhi House  
**NAIROBI**



**National Development Implementation Technical Committee  
(NDITC) Meeting**

**BRIEF ON IMPLEMENTATION OF GALANA KULALU FOOD  
SECURITY PROJECT  
MINISTRY OF WATER, SANITATION AND IRRIGATION**

**JOSEPH IRUNGU, CBS**

**PRINCIPAL SECRETARY**

Executive Brief

Date of Presentation 18<sup>th</sup> February 2021

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- Galana Kulalu Food Security Project was initiated with the objective of ensuring national food security in the country.
- A Cabinet Memorandum has been signed proposing the way forward on critical components of the Galana Kulalu Food Security Project which will ensure full utilization of the 1.75 million acre ranch.
- A joint committee for implementation of Galana Kulalu Food Security Project comprising of the various key implementing Departments has been constituted and consultative meetings have been going on.
- The Ministry of Lands and Physical Planning has prepared a draft land use plan for Kulalu area

# Galana Kulalu Food Security Project

## Scope of works

- The main activities to be carried out include settlement of the host communities; upstream river pollution control and catchment conservation; provision of road, bridge and power infrastructure to the model farm; completion of the infrastructure for the 10,000 acre Galana Kulalu Model farm; and termination of all the existing leases on the ADC land that cover 808,941 acres
- The infrastructure of the Galana Kulalu Model farm Project is 89% complete. (2 pumping stations have been constructed, 8 pumps installed, 20 center pivots installed (3,300 acres) and installation of 1800 acres of drip system has been done. Tender of completion of the remaining works was awarded on 4<sup>th</sup> December 2020 and the contractor has mobilized to site.
- A team of surveyors and physical planners from the Ministry of Lands and Physical Planning have prepared a structural map and a draft land use plan for Kulalu ADC farm.

▪ The total budget required for implementing the various intervention is Kshs 5.13 billion.

▪ The project implementation is being coordinated by the Ministry of Water, Sanitation and Irrigation

### Project Summary



### Financial Summary



### Project Governance



## STATUS OF IMPLEMENTATION OF KEY ACTIVITIES

Initiative	Budget Requirement	Timeline	Remarks
<b>Ministry of Water, Sanitation and Irrigation</b>	<ul style="list-style-type: none"> <li>▪ 600 million</li> </ul>	<ul style="list-style-type: none"> <li>▪ June 2021</li> </ul>	<p>National Treasury has already allocated Kshs.600 Million to the Ministry</p> <ul style="list-style-type: none"> <li>▪ Contract awarded to IRRICO Kenya Company on 4<sup>th</sup> December 2020</li> <li>▪ The contractor has already mobilized to site and has carried out survey for the 24 centre pivots</li> <li>▪ The works remaining includes installation of centre pivots, pumps and pipelines</li> <li>▪ Project is expected to be completed by June 2021.</li> </ul>
<b>Ministry of Agriculture, Livestock, Fisheries and Cooperatives</b>	<ul style="list-style-type: none"> <li>▪ Termination of all the existing leases on the ADC Land.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Dec. 2020</li> </ul>	<ul style="list-style-type: none"> <li>▪ The Attorney General to advise and expedite termination of leases at least cost to the National Government</li> <li>▪ Consultations are on going within ADC, AG and NLC regarding the termination of the leases</li> </ul>

**Ministry of Lands and Physical Planning**

Initiative	Budget Requirement	Timeline	Remarks
<ul style="list-style-type: none"> <li>▪ Physical and land use planning</li> </ul>	<ul style="list-style-type: none"> <li>▪ 130 million</li> </ul>	<ul style="list-style-type: none"> <li>▪ December 2020</li> </ul>	<ul style="list-style-type: none"> <li>▪ Ministry has embarked on survey and physical land use planning as they seek funds from Treasury for the activities.</li> </ul>
<ul style="list-style-type: none"> <li>▪ Surveying and demarcation</li> </ul>	<ul style="list-style-type: none"> <li>▪ 300 Million</li> </ul>	<ul style="list-style-type: none"> <li>▪ April 2021</li> </ul>	<ul style="list-style-type: none"> <li>▪ Draft land use plan for Kulalu area which covers 245,000 acres has been prepared</li> </ul>
<ul style="list-style-type: none"> <li>▪ Allocation of plots</li> </ul>	<ul style="list-style-type: none"> <li>▪ 70 million</li> </ul>	<ul style="list-style-type: none"> <li>▪ June 2021</li> </ul>	<ul style="list-style-type: none"> <li>▪ The decision making for zoning and determining the land sizes has been made considering the soil analysis and agro ecological zone analysis</li> </ul>
			<ul style="list-style-type: none"> <li>▪ The planning area falls in Coastal lowland zone 5 and 6 which experience very short to short cropping season</li> </ul>
			<ul style="list-style-type: none"> <li>▪ Target to settle 14,017 families in Kulalu area</li> </ul>

TOTAL ACREAGE (APPROX)	
ZONE/BLOCK	
1 Commercial (Urban area and markets)	3,360
2 Residential	3,022
3 Agricultural	184,188
4 Educational	519
5 Public purpose	316
6 Public utility	783
7 Transportation	9,475
8 Conservation (Wildlife buffer zone, riparian and river flood zone)	40,116
9 Recreation	254
10 Industrial	125
11 Ecotourism	2871
<b>TOTAL</b>	<b>245,029</b>

**WILDLIFE AND NATURAL RESOURCES DEPARTMENT**

<b>ZONE/BLOCK</b>	<b>NO OF FAMILIES</b>	<b>ACREAGE PER FAMILY</b>	<b>TOTAL ACREAGE)</b>
1 Crop production zone	10,201	10	110,040
2 Transition zone	1,250	20	25,188
3 Livestock zone (To be used as a livestock grazing area)	1,714	30	52,722
4 Horticulture zone (bordering the river)	852	6	4,853
5 Residential/Settlement			4,033
6 Ecotourism	-	-	2,871
7 Commercial (Urban area and markets)	-		3,228
8 Conservation (Wildlife buffer zone, riparian and river flood zone)	-		39,579
9 Transportation (Roads and airstrip)		6	2,220
10 Water reservoir			295
<b>TOTAL</b>	<b>14,017</b>		<b>245,029</b>

Initiative	Budget Requirement	Timeline	Remarks
<b>Ministry of Environment and Forestry</b>	<ul style="list-style-type: none"> <li>Upstream pollution strategy and catchment conservation</li> </ul>	<ul style="list-style-type: none"> <li>December 2021</li> </ul>	<ul style="list-style-type: none"> <li>The main pollution problems are untreated effluent and solid waste discharge from upstream Counties</li> <li>Works on pollution control has started. Cleaning the upstream water bodies and the ban on plastics which minimizes solid wastes being the main pollutants.</li> <li>Clean-up of tributaries of rivers Sabaki- Galana is ongoing</li> </ul>
	<b>Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works</b>	<ul style="list-style-type: none"> <li>Construction of 15 Km of tarmac road (6km main access and 9km of link/feeder)</li> </ul>	<ul style="list-style-type: none"> <li>June 2021</li> </ul>
<ul style="list-style-type: none"> <li>Construction of a 250m Bridge across River Galana</li> </ul>		<ul style="list-style-type: none"> <li>June 2021</li> </ul>	<ul style="list-style-type: none"> <li>2.0 billion</li> </ul>

**Initiative**

**Budget Requirement**

**Timeline**

**Remarks**

**Ministry of Tourism and Wildlife**

- 100 million ▪ December 2021 ▪ KWS provided security to the survey and planning teams
- Creation of wildlife corridors
- Erection of a 29km electric game proof fence
- The wildlife in the Galana model farm are being trans located to Vipingo
- Construction of rangers post

**Ministry of Energy**

- Provision of Grid Power for Galana Kulalu Project of approximately 5770KVA
- 700 million ▪ December 2021
- National Treasury to avail funds for carrying out the activities

# MATRIX FOR IMPLEMENTATION OF KEY ACTIVITIES CONT.....

Initiative	Budget Requirement	Timeline	Remarks	
<p style="text-align: center;"><b>Coordination budget for the technical team</b></p>	<ul style="list-style-type: none"> <li>▪ Stakeholder consultations</li> <li>▪ Project monitoring visits</li> <li>▪ Engagement with potential investors</li> </ul>	<ul style="list-style-type: none"> <li>▪ 26 million</li> <li>▪ December 2021</li> </ul>	<ul style="list-style-type: none"> <li>▪ National Treasury is yet to avail funds for carrying out the activities</li> </ul>	
	<p style="text-align: center;"><b>National Treasury</b></p>	<p>Funding for :</p>	<ul style="list-style-type: none"> <li>▪ 5.13 billion</li> <li>▪ 2020-2023</li> </ul>	<ol style="list-style-type: none"> <li>1. Formal requests to the National Treasury on the funds required for the critical infrastructure projects have been made</li> <li>2. The respective Ministries should reorganise their internal budgets to do preliminary works, i.e. Project Preparations, Designs, Tendering and thereafter, seek funding for the implementation of the projects.</li> </ol>
		❖ Land settlement		
❖ Energy infrastructure				
❖ Road and bridge infrastructure				
❖ Implementation of upstream pollution control strategy				
❖ Wildlife control activities				
❖ Coordination budget				

## Key Requests to the NDITC

- **Key Request 1:** Note the progress of implementing the various interventions in the Galana Kulalu Food Security Project.
- **Owner:** MWSI, MALFC, MLPP, ME,MTIHUPW, MEF,MOF, MTW, NT, AG
- **Timeline:** Immediate

- **Key Request 2:** National Treasury to allocate Kshs. 5.13 Billion for the implementation of the various initiatives
- **Owner:** NT
- **Timeline:** February 2021 to June 2022

- **Key Request 3:** Ministry of Lands and Physical Planning be provided with funds for detail survey of Kulalu area and be allowed to implement the proposed land use plan for Kulalu
- **Owner:** MLPP, MOF
- **Time line:** February 2021 to June 2021

- **Key Request 4:** Request NDICCC to carryout stakeholder consultation with the leadership of Kilifi and Tana River Counties
- **Owner:** Chairman NDITC and PS MWSI
- **Time line:** March 2021



## MINISTRY OF LANDS AND PHYSICAL PLANNING

### RESPONSES TO THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON LANDS

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Honourable Chair,

Pursuant to a letter Ref. NA/DDC/LANDS/2021/(046) dated March 31, 2021, the Committee invited the Cabinet Secretary Ministry of Lands and Physical Planning to respond to the following:

- i) Petition by Hon. Ken Kiti Chonga MP on behalf of residents of Dindiri-Makata and Kaole Villages regarding dispossession of land belonging to Dindiri-Makata and Kaole residents in Chasimba Ward, Kilifi South Constituency
- ii) Petition by Hon. Ken Kiti Chonga MP on behalf of residents of Chidongo, Junju, Mirima Minne and Bodoi regarding resettlement of residents of Chidongo, Junju, Mirima Minne and Bodoi in Kilifi South Constituency
- iii) Petition by residents of Tetu Sub-county regarding resettlement of Tucha Kiandongoro Forest squatters in Solio Ranch
- iv) Petition by Hon. Ali Wario Guyo MP on behalf of Father Grol's Welfare regarding subdivision of the Agricultural Development Corporation (ADC) land and stakeholder consultations on Galana Kulalu food security project.

Honourable Chair, we wish to respond as follows;

- i) **Petition by Hon. Ken Kiti Chonga MP on behalf of residents of Dindiri-Makata and Kaole Villages regarding dispossession of land belonging to Dindiri-Makata and Kaole residents in Chasimba Ward, Kilifi South Constituency**

The petition dated November 3, 2020 was presented by Makao CBO, a community-based organization comprising residents of Dindiri-Makata and Kaole villages of Chasimba Ward in Kilifi South Constituency residing on Plot No. 152/IV/MN measuring 1776 acres, claimed to be ancestral land.

The Petitioners claim that they recently discovered that the land is registered in the name of Mbarak Islam Abed, the title having been issued in 1908. They state that the title deed was irregularly issued since it could not have been issued to the said person during the British colonial era.

According to the Petitioners, they have resided on the land for over 100 years and as such, they are the legitimate owners of the land. They claim that efforts to address the matter with the relevant authorities have been futile.

The Petitioners therefore request the Committee to inquire into the matter with a view to secure the revocation of the title deed issued to facilitate subdivision of the land in their favour.

**Honourable Chair**, we wish to respond as follows;

According to our records, title to Plot No. MN/IV/152 (measuring 1776 acres) was first registered on May 11, 1970 in the following names-

- i) Ali Rashid Mathri as administrator of the estate of Rashid Ali Manthri (1/4 undivided)
- ii) Khamis Mohamed El- Basami as administrator of the estate of Mohamed Khamis El-Basami (1/4 undivided share)
- iii) Muarabu Salim (1/16 undivided share)
- iv) Islam Ali (3/32 undivided share, and
- v) Ahmed Ali (3/32 undivided share)

(as proprietors in common for an estate in fee simple)

A Certificate of Ownership No. **C.R. 13774** was issued under the Land Titles Ordinance (1908) in respect of the parcel (**Annexure 1**).

The current registered proprietors of Plot No. MN/IV/152 are:

- i) Mbarak Islam Abeid (3/6 undivided share)
- ii) Salim Mohamed Rashid Basami (1/6 undivided share)
- iii) Haidar Mohamed Rashid Basami (1/6 undivided share)
- iv) Ahmed Mohamed Rashid(1/6 undivided share)

Mbarak Islam Abeid obtained title to a portion of his share which was registered as **C.R. 35178** on November 11, 2002 (being a subdivision of Plot No. MN/IV/152 (**Annexure 2**)).

**Honourable Chair**,

The petition raises a historical land injustice claim as defined under Section 15 (2) of the National Land Commission Act, 2012. The appropriate redress for the petitioners would be to lodge the petition with the National Land Commission for consideration. The timeline to submit a historical injustice claim expires in September 2021.

- ii) **Petition by Hon. Ken Kiti Chonga MP on behalf of residents of Chidongo, Junju, Mirima Minne and Bodoi regarding resettlement of residents of Chidongo, Junju, Mirima Minne and Bodoi in Kilifi South Constituency.**

**Honourable Chair,**

The Petition dated December 3, 2020 was presented by residents of Chidongo, Junju, Mirima Mine and Bodoi villages residing on Plot No.71/1/V/Mainland North measuring approximately 1776 acres in Kilifi South Constituency, claimed to be ancestral land. They claim to have lived on the land for over 100 years.

The Petitioners state that they applied to be allocated the said parcel of land in 2003, through the District Land Management Board and were informed that the process could not be executed because there was no information regarding the land at the Kilifi land registry. They made a second application to the National Land Commission on February 23, 2015 through the Chijumibo Community Based Organisation (CBO) to have them formally settled on this land. According to the petition, the Commission investigated the matter and also noted that there were no records on the ownership of the land.

On November 21, 2017, the Commission advertised the land through the Kenya Gazette calling for any person with any claim or interest in the parcel to come forward. Although the notice provided a 30 days' timeline, no one came forward to claim the land. Despite this, the Commission did not allocate the land to the Petitioners.

The Petitioners claim that they were shocked to find that the land was registered in the names of Daniel Kimeu Muhia, Lucas Chimeza Kenga, Francis Kipkosgei Kemboi and Christopher Tuitoek Kiplagat (under a 999 years lease commencing in 1995) when they carried out a search on the land on September 11, 2020. They claim that efforts to have matter addressed by the relevant authorities, including the National Land Commission and the Kilifi Lands Registry have been futile. They therefore request the Committee to-

- (i) inquire into the matter with a view to securing, with the assistance of the Commission for the revocation of the title deed and subsequent allotment and sub-division of land to the Petitioners
- (ii) Secure the prosecution of all land officers and persons involved in the fraudulent allocation of the land so as to discourage repetition of such incidents of blatant impunity regarding land matters in the country
- (iii) Make any other order or direction that it deems fit in the circumstances of the matter

**Honourable Chair**, we wish to respond as follows;

According to our records, the registered proprietors of **L.R. No. MN/IV/71/1** are Muhia Daniel Kimeu, Lucas Chimera Kenga, Francis Kipkogei Kemboi and Christopher Tuitoek Kiplagat. The parcel measures approximately 198.82 Hectares on a 999-year lease commencing on January 1, 1995. A Certificate of Title No. **C.R. 71107** in respect of the above property was issued on March 19, 2018 (**Annexure 3**).

**Honourable Chair**,

We note the following regarding the lease;

- i. The correspondence file containing the allocation and payment history for the plot cannot be traced at the Ministry Records section in Nairobi
- ii. There are records at our Mombasa Registry indicating that MN/IV/71/1 was previously reserved as Wakf property to the heirs of Mohamed bin Juma and their children forever (**Annexure 4**).

In view of the foregoing, the Ministry has written a letter to the registered proprietors to provide documentation used in acquisition and registration of the parcel in their names (**Annexure 5**).

**iii) Petition by residents of Tetu Sub-county regarding resettlement of Tucha Kiandongoro Forest squatters in Solio Ranch**

**Honourable Chair**,

The Petitioners state that they were evicted from Tucha/Kiandongoro Forest in 1988 with a promise to be resettled at Solio Ranch Village 3. They claim that unfortunately, people who were not validated as evictees ended up being the beneficiaries, leaving the legitimate beneficiaries homeless and destitute.

They claim that in 2008, a major resettlement programme was undertaken to resettle evictees from Kabarú, Naro Moru and Hombe in Mount Kenya Forest and those evicted from Kabage and Zaina in Aberdare Forest but they were left out of the resettlement exercise.

The Petitioners wish to be resettled in Village 5 of Solio Ranch which they claim is still vacant. They state that they were advised by the Regional Commissioner, Central region vide a letter Ref. RC/LN5/3/2.VOL.V/38 dated December 18, 2019 to petition Parliament since the matter required intervention from several Government agencies hence their petition to the Committee.

**Honourable Chair**, we wish to respond as follows;

The Ministry set up multiagency committee in 2017 to look into the issue of landless squatters in Nyeri County. The Committee comprises of the County Commissioner who is also the Chair, all the Deputy County Commissioners in the County, officers from the Ministry of Lands and Physical Planning and the National Land Commission.

The mandate of the Committee was to identify the numerous landless people in the county (squatters), their origin and veracity of the claims. The team found out that there were several categories of squatters depending on their origin which include-

- i) Forest evictees
- ii) Those in colonial villages
- iii) Former casual workers in the then European farms
- iv) Those displaced by developments
- v) People squatting on public land
- vi) People displaced by natural catastrophies

As for the forest evictees, the Committee established that people were evicted from Hombe, Ragati, Kabaru, Gathiuru and Cheche in the larger Mt. Kenya Forest. There were also those who were evicted from Aberdare forests such as Zaina, **Kiandongoro (Tucha)**, Kabage and Gakanga. Most of the evictees were settled by the Government in Ndathi Settlement Scheme in 1992 and 2008/9 respectively. The remaining ones are the ones squatting in various places including road reserves. The list of the evictees is attached marked **Annexure 6**. This is because the land was not sufficient to settle all the squatters.

Following site visits, it was found out that these people are living in small congested spaces averaging 1/8 (eighth) of an acre in almost all the colonial villages scattered in the County, where a family or household of 10 or thereabouts was living on that portion of land.

The Committee observed that in order to reduce pressure on the piece of land they occupy, some household members should be considered for land.

**Honourable Chair**, Solio Ranch Village 5 is private land and is not sufficient to settle all the petitioners. The Ministry in consultation with key stakeholders will source for an alternative land and funds to resettle the squatters.

- iv) **Petition by Hon. Ali Wario Guyo MP on behalf of Father Grol's Welfare regarding subdivision of the Agricultural Development Corporation (ADC) land and stakeholder consultations on Galana Kulalu food security project**

**Honorable Chair**,

The petition raises a number of issues concerning the Galana Kulalu Food Security Project covering the Galana and Kulalu Government Ranches in Tana

River and Kilifi counties implemented by the Ministry of Water, Sanitation and Irrigation.

From the petition, the Cabinet proposed several measures to ensure full utilization of the 1.7 million acre ranch touching on land settlement, termination of all existing leases on the ADC land, development of road infrastructure, power connection, and the conservation, protection and management of the environment.

The Petitioner states that the Ministry of Lands and Physical Planning has embarked on planning and survey of the land for resettlement of the host communities and subdividing the land for commercial leasing for crops and livestock enterprises. According to the Petitioner, the Ministry plans to settle 30,000 families and establish a 200-acre community ranch scheme.

He claims that the Ministry of Water, Sanitation and Irrigation wrote to the Regional Commissioner, Coast region to schedule stakeholder consultations for the project on November 9-11, 2020 but it did not take place.

The Petitioner requests the Committee to;

- i. Inquire into the circumstances under which the proposed 250,000 acres community ranch scheme as per existing survey map was amended to 200,000 acres
- ii. Recommend that the 5,000 beneficiaries under the community ranch scheme be increased to a number proportionate to the affected citizens and that priority be accorded to locals who have directly been affected by the project
- iii. Ensure that public participation is undertaken as per the Constitution and provisions of the Agricultural Development Corporation (Special Farms) Rules; and
- iv. Make any other appropriate recommendations it deems fit in addressing the circumstances raised in the Petition

**Honourable Chair**, I wish to respond as follows-

The Galana-Kulalau land is registered under two separate titles. The first title is Grant No. 44891 (L.R. No.14248) measuring 99,164 Ha (245,044.16 Acres). It lies largely within Kilifi County. The second parcel is registered as Galana Ranch Block 1/1 measuring 607,042 Ha (1,500,061.5 Acres). The parcel lies largely within Tana River County. Hence the total acreage is 706,206 Ha (1,745,106 Acres). **(Annexure7)**.

For avoidance of doubt, the ongoing planning and survey work is solely being carried out on the Kulalu Ranch (L. R. No. 14248) which is within Kilifi County. Therefore, the statement by the petitioner regarding the alleged planning and surveying of the Galana Ranch is not factual.


The Ministry also clarifies that the subject land in question is not a community ranch, and neither has it been under occupation by the community. The Kulalu Ranch belongs to the National Government, and is committed to the Agricultural Development Corporation. In light of this, it is important to note that there has been no provision for 5000 beneficiaries under the purported community ranch scheme as the land belongs to the national government. Any position on settlement of beneficiaries will emanate from the government after its processes of planning and survey have been duly completed.

On the issue regarding public participation, the Ministry confirms that it has been undertaking planning and survey of the land under Kulalu ranch within the Galana – Kulalu Food Security Project (GKFSP). However, the planning and survey are still at the technical stages where land analyses and initial ground truthing are conducted.

The plan has proposed the sub-division of the ranch based on the ecovillages concept to enable promotion of an agro-industrial economy while ensuring environmental sustainability. The draft land use plan is still undergoing technical assessment and refinement at a ministerial level. The Ministry confirms that upon completion of these technical processes, public participation will be incorporated in subsequent phases of the project. This will enable incorporation of views of various stakeholders pending approval of the land use plan.

The Ministry wishes to clarify that based on the status of Kulalu Ranch as national government land, outcomes of the planning, survey and settlement processes will be a national government decision. Nevertheless, given the importance of public participation in success of development projects, such decisions will take into account the concerns raised in stakeholder engagements including the County Government of Kilifi, the area leadership, other Government MDAs, and communities.

Honourable Chair, I submit.

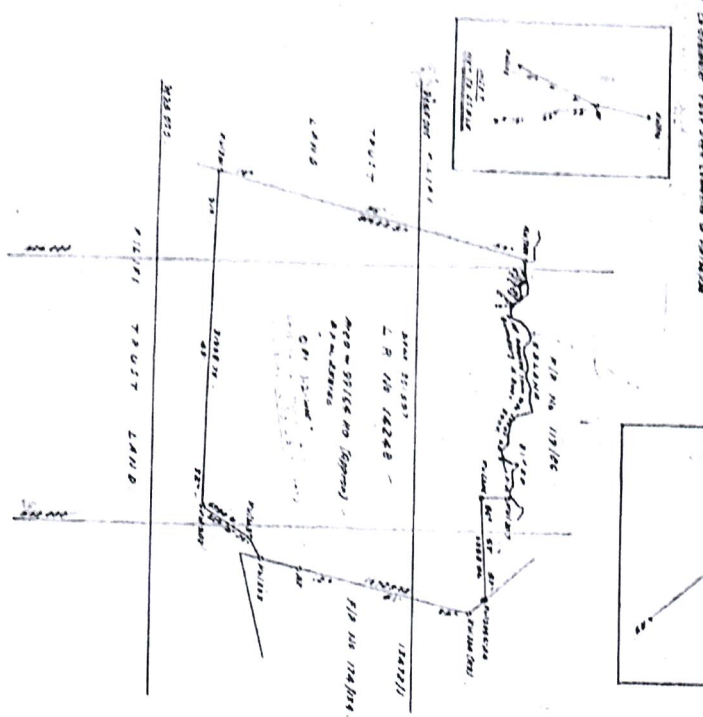


Farida Karoney, EGH  
**CABINET SECRETARY**

April 20, 2021

Station	Angle	Distance	Bearing
1+00	110° 15'	100.00	S 110° 15' E
2+00	110° 15'	100.00	S 110° 15' E
3+00	110° 15'	100.00	S 110° 15' E
4+00	110° 15'	100.00	S 110° 15' E
5+00	110° 15'	100.00	S 110° 15' E
6+00	110° 15'	100.00	S 110° 15' E
7+00	110° 15'	100.00	S 110° 15' E
8+00	110° 15'	100.00	S 110° 15' E
9+00	110° 15'	100.00	S 110° 15' E
10+00	110° 15'	100.00	S 110° 15' E

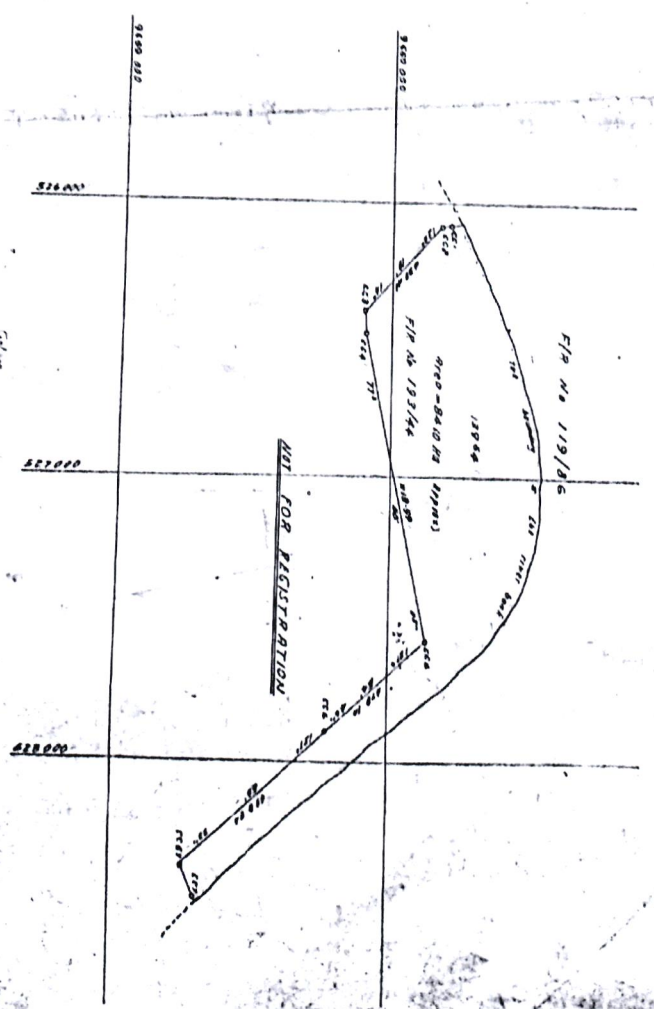
The survey was done in accordance with the provisions of the Surveying Act, R.S.O. 1990, Chapter S. 5, and the regulations thereunder. The Engineer's Certificate has been completed in accordance with the provisions of the Surveying Act, R.S.O. 1990, Chapter S. 5, and the regulations thereunder.



SCALE 1:250000

Registration	Transactions	Amputation	Records
11-08-87	11-08-87	11-08-87	11-08-87
11-08-87	11-08-87	11-08-87	11-08-87
11-08-87	11-08-87	11-08-87	11-08-87
11-08-87	11-08-87	11-08-87	11-08-87

INSET



Post-Parcel No. L.R.N. 14448  
 Parcel No. L.R.N. 14448  
 Registration Book: 11/11/1  
 Registration Date: 11/11/1  
 Locality: N.W. 1/4, Township 10N, Range 10W

Folio No. 195  
 Register No. 57



REPUBLIC OF KENYA

THE REGISTERED LAND ACT  
(Chapter 309)

12

# Certificate of Lease

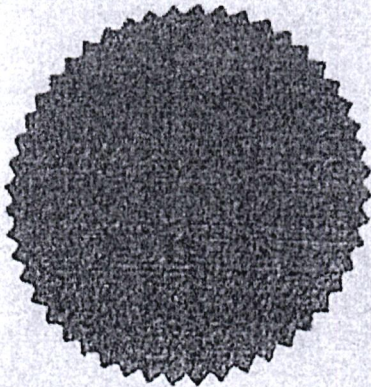
TITLE NO.	APPROXIMATE AREA
GALANA RANCH BLOCK 1/F	607042 HA
LESSOR GOVERNMENT OF KENYA	
RENT KSH. 704,160/- P.A.	
TERM 15 YEARS FROM 1.11.2011	

*This is to certify that* AGRICULTURAL DEVELOPMENT  
 CORPORATION, P. O. BOX 47101 - 00100, NAIROBI. "

" " " "

" " " "

is (are) now registered as the proprietor(s) of the leasehold interest above referred to, subject to the agreements and other matters contained in the registered lease, to the entries in the register relating to the lease and to such of the overriding interests set out in section 30 of the Registered Land Act as may for the time being subsist and affect the land comprised in the lease.



GIVEN under my hand and the seal of the

MOMBASA District Registry

this 29TH day of NOVEMBER, 20 12

H. A. S. 174

*[Signature]*  
 Land Registrar





(To be completed only when the applicant has paid Sh. 125)

107374

KULALU

LR no

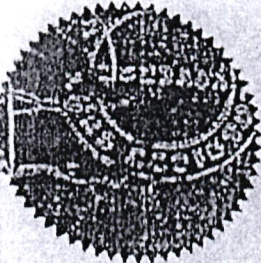
14248



RECEIVED  
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0028

14/12/06  
M. M. NGANGA

508 28  
1/12  
M. M. NGANGA 209  
*(Signature)*



REPUBLIC OF KENYA

THE REGISTRATION OF TITLES ACT

(Chapter 281)

GRANT No. CR. 44891.

ANNUAL RENT: Landrent payable during the first 10 years at 3% of the Capital value of land of Kshs. 360,000.00 Land rent payable after 10 years at 5% of Capital value of the land of Kshs. 600,000.00 Land rent payable until registration at 1% of capital value of Kshs. 120,000.00 per annum.

TERM: 45 Years FROM 1.8.1983

KNOW ALL MEN BY THESE PRESENTS that in pursuance of a surrender registered in the Government Land Title registry at MOHDA SA as C.R. No. 44203/2 THE PRESIDENT OF THE REPUBLIC OF KENYA ~~Secretary-General~~ on behalf of County Council of Malindi Hereby Grants Unto AGRICULTURAL DEVELOPMENT CORPORATION, a body corporate duly incorporated under the Agricultural Development Corporation Act (Chapter 444) of the Laws of Kenya of NAIROBI (Post Office Box Number 47101).

Hereinafter called "the Grantee") all that piece of land situate North West of Malindi Municipality in KILIFI

District containing by measurement nine nine one six four (99164) Hectares

~~more~~ or thereabouts that is to say Land Reference Number 14248

which said piece of land with the dimensions abutals and boundaries thereof is delineated on the plan annexed hereto and more particularly on Land Survey Plan Number 291551 deposited in the Survey Records Office at Nairobi To HOLD for the term of forty five (45) Years

from the First day of August ~~four thousand and~~ <sup>one</sup> nine hundred and eighty three SUBJECT to (a) the payment in advance on the first day of January in each year of the annual rent of Shillings twenty eight thousand (Kshs. Kshs. 28,000/=) (Revisable) w.e.f. 1.8.1986

(b) the provisions of the <sup>Trust</sup> ~~Government~~ Lands Act (Chapter <sup>288</sup> ~~180~~)

(c) the following special conditions (Namely):-

# REPUBLIC OF KENYA

NEW GRANT

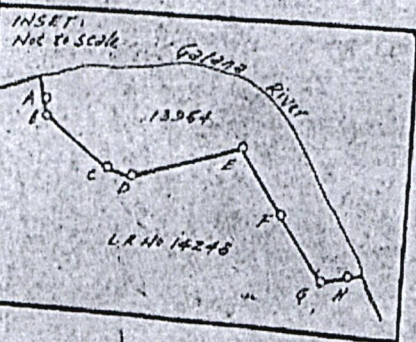
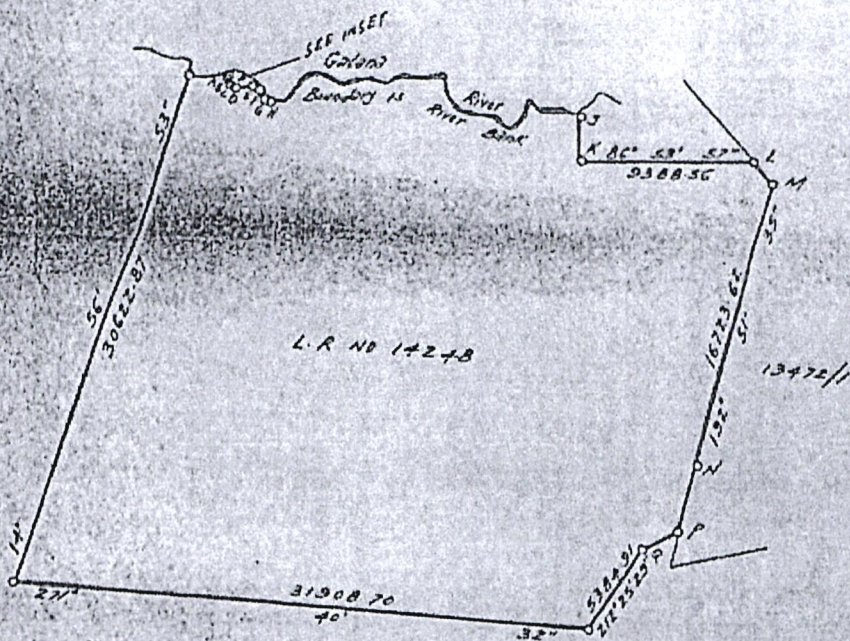
DISTRICT OF KILIFI  
 Locality N.N Malindi Municipality  
 Reference Map Sheet A-373  
 V. 1-2

Land Reference No. 14248  
 (Orig No. ....)

Sub division No. .... (Orig No. ....)  
 of Section No. ....

Area = 99164 H2 (APPROX)

Beams	Distances in meters	
	1	2
B-I-A	160	53
A-B	163	53
B-C	132	14
C-D	86	16
D-E	77	55
E-F	137	54
F-G	137	55
G-H	65	00
H-A	65	00
I-J	178	30
J-K	170	30
L-M	138	32
N-P	192	73
A-Q	233	11



Traced by Adwainis

Compared by ADW

Scale 1 in 25000

for Director of Surveys

Nairobi 18TH NOVEMBER 2008

DEED PLAN No. 29/55/

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 ISSUE



**NATIONAL LAND COMMISSION**

**RESPONSE TO THE NATIONAL ASSEMBLY DEPARTMENTAL  
COMMITTEE ON LAND**

**REPORT BY:**

**GERSHOM OTACHI BW'OMANWA**

**CHAIRMAN**

**07<sup>th</sup> October, 2021**

## RESPONSE TO THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON LAND

**Honourable Chair,**

Pursuant to a letter Ref. **NA/DDC/LANDS/2021 (114)** dated **13<sup>th</sup> September, 2021**, the Committee requested the chairperson of the National Land Commission to report on the following-

1. The issues raised in a petition by residents of Garsen Constituency regarding degazettment of specified Agricultural Development Corporation (ADC) land in Garsen Constituency.

**Honourable Chair,** we wish to respond as follows-

The National Land Commission still stands with the initial response tabled on 30<sup>th</sup> July 2021 (Annexed).

Honourable Chair, I Submit



**GERSHOM OTACHI BW'OMANWA**

**CHAIRMAN**



## MINISTRY OF LANDS AND PHYSICAL PLANNING

### RESPONSE TO THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON LANDS

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**Honourable Chair,**

Pursuant to a letter Ref. **NA/DDCS/LANDS/2021/113** dated **September 9, 2021**, the Committee requested the Cabinet Secretary Ministry of Lands and Physical Planning to respond to a petition by Hon. Ali Wario, MP, Garsen Constituency on behalf of residents of Garsen Constituency in Tana River County regarding degazettement of Agricultural Development Corporation land in Garsen Constituency.

#### **The Petition**

**Honourable Chair,**

The petitioners state that Galana Ranch Scheme measuring approximately 1.5 Million acres was established in 1968 as a game and trading company before it was acquired by the Government through the Agricultural Development Corporation (ADC) to:

- i) Provide a buffer zone between Tsavo National Park and surrounding communities
- ii) Undertake beef ranching
- iii) Off-take management during drought
- iv) Undertake production of biogas

They state that through the intervention of H.E. Retired President Mwai Kibaki in 2006 and H.E. President Uhuru Kenyatta in 2013, ADC was directed to release 250,000 acres to residents of Assa and Kone Locations near Tsavo East National Park with pastoralists being granted access to River Galana Watering Corridor to water their livestock.

According to the petitioners however, there is a proposed sub-division scheme plan proposing subdivision of the Galana Ranch as follows:

- i) 100-acre blocks totalling 200,000 acres categorised as small scale
- ii) 10-acre blocks totalling 300,000 acres categorised as a settlement schemes

- iii) 10,000-acre blocks totalling 400,000 acres categorised as large scale
- iv) 5000-acre blocks totalling 200,000 acres categorised as medium scale 1
- v) 1000-acre blocks totalling 200,000 acres categorised as medium scale 2.

The petitioners aver that the proposed subdivision will adversely affect the entire community which primarily relies on the land to graze the large number of livestock due to the inadequate grazing land. They contend that the 250,000 acres earmarked for the community is inadequate and propose that the acreage be increased to atleast 600,000 acres in view of the demand for grazing land.

They claim that efforts to have the proposed sub-division scheme plan revised by the relevant authorities have not borne fruits. They have therefore filed the petition to request the Committee to:

- i) Intervene to facilitate timely degazettement of the said land to convert it to community land for grazing and related communal use by residents of Assa and Kone locations and to facilitate the degazettement of the River Galana Watering Corridor on both sides of the Tsavo East National Park and ADC lands
- ii) Intervene to facilitate the increment of the Galana Ranch allocation from 250,000 acres to 600,000 acres and to guarantee that at least 25% of all beneficiaries from all land block categories are local residents of Garsen Constituency
- iii) Make any further orders deemed appropriate for the petition.

## **Response**

**Honourable Chair,** I wish to respond as follows-

The Galana – Kulalu Food Security Project (GKFSP) comprises two swathes of land registered under two separate titles. The first title is Grant No. 44891 (L.R. No.14248) measuring 99,164 Ha (245,044.16 Acres). It lies largely within Kilifi County. The second parcel is registered as Galana Ranch Block 1/1 measuring 607,042 Ha (1,500,061.5 Acres). The parcel lies largely within Tana River County. The total acreage is 706,206 Ha (1,745,106 Acres). Thus, the Galana Ranch measures 1,500,061.5 acres and not 1.75 million acres as alleged by the petitioners.

For avoidance of doubt, the ongoing planning and survey work is solely being carried out on the Kulalu Ranch (L. R. No. 14248) which is within Kilifi County and measures 245,044.16 Acres. The allegations of sub-divisions having been carried out on the Galana Ranch are therefore inaccurate, as no planning and settlement of beneficiaries has been conducted by the Government on the said land. The same applies to claims of the local community being allocated only 250,000 acres.

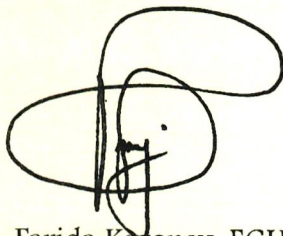
The Government will commence the planning and survey of the land under Galana Ranch upon completion of logistical arrangements and stakeholders will be duly notified before commencement of the activities.

On the issue of degazettment of the land and subsequent change to community land status, the Ministry wishes to clarify that the Galana – Kulalu Food Security Project (GKFSP) is one of the Government's key-targeted agricultural reforms to promote best practice for achievement of food and nutritional security. As such, the project aims at enhancing agricultural practises for increased food security while creating a sustainable, well-planned ecology for the harmonious co-existence of farmers, pastoralists and the wildlife in the area. It is also important to note that the communities to be settled on the land upon completion of planning and survey processes will require various facilities, infrastructure and services.

In this regard, a spatial development framework and comprehensive infrastructure provision is crucial for the development of the Galana Ranch. The Government is best suited to guide these developmental processes while maintaining ownership of the land.

Nevertheless, given constitutional and legal provisions on stakeholder participation in land use planning processes, the community of Garsen, will be engaged in the planning of Galana Ranch. While the outcomes of the planning, survey and settlement processes of both Kulalu and Galana ranches will be a national government decision, there will be due consideration of the interests, needs and welfare of the community.

**Honourable Chair**, I submit.



Farida Karoney, EGH  
**CABINET SECRETARY**

**November 17, 2021**



**NATIONAL LAND COMMISSION**

**RESPONSE TO THE NATIONAL ASSEMBLY DEPARTMENTAL  
COMMITTEE ON LAND**

**REPORT BY:**

**GERSHOM OTACHI BW'OMANWA**

**CHAIRMAN**

**30<sup>th</sup> June, 2021**

## **RESPONSE TO THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON LAND**

**Honourable Chair,**

Pursuant to a letter Ref. **NA/DDC/LANDS/2021 (064)** dated **22<sup>nd</sup> June, 2021**, the Committee requested the chairperson of the National Land Commission to report on the following-

1. The issues raised in a petition by residents of Garsen Constituency regarding sub-division of Agricultural Development Corporation (ADC) land and stakeholder consultation in the Galana Kulalu food security project in Tana River and Kilifi Counties.
2. A report on the payments made by the Commission for the compulsory acquisition of parcel of land by the Kenya National Highway Authority (KeNHA) in City Cabanas area, Nairobi.

On this response, the Chairperson National Land Commission will be expected to, in addition to the issues raised in the said petition, to provide information on the following-

1. Whether the National Land Commission was consulted or participated in the planned sub – division of the Galana and Kulalu Ranches in Kilifi and Tana River Counties to facilitate the establishment of food security project in the area by the National Government through the National Development Implementation Committee.
2. Whether the Agricultural Development Corporation Act (Cap 444) and the Agricultural Development Corporation Special Farms Rules 2001 were followed in the planned disposal of the land currently held by the Agricultural Development Corporation (ADC) in Galana and Kulalu.
3. The role of the National Land Commission in the protection of public land held by the Agricultural Development Corporation.
4. The role the National Land Commission if any, in the legitimate disposal of land held by the Agricultural Development Corporation (ADC).

**Honourable Chair,** we wish to respond as follows-

1. **Whether the National Land Commission was consulted or participated in the planned sub – division of the Galana and Kulalu Ranches in Kilifi and Tana River Counties to facilitate the establishment of food security project in the area by the National Government through the National Development Implementation Committee.**

The National Land Commission was not consulted and has not participated in any manner in the planned sub – division of the Galana and Kulalu Ranches in Kilifi and Tana River Counties to facilitate the establishment of food security project in the area by the National Government through the National Development Implementation Committee.

2. **Whether the Agricultural Development Corporation Act (Cap 444) and the Agricultural Development Corporation Special Farms Rules 2001 were followed in the planned disposal of the land currently held by the Agricultural Development Corporation (ADC) in Galana and Kulalu.**

**Honourable Chair,**

Since the National Land Commission was not consulted, neither did it participate in the planned sub – division of the Galana and Kulalu Ranches in Kilifi and Tana River Counties to facilitate the establishment of food security project in the area by the National Government through the National Development Implementation Committee, we are not aware of the if the Agricultural Development Corporation Act (Cap 444) and the Agricultural Development Corporation Special Farms Rules 2001 were followed in the planned disposal of the land currently held by the Agricultural Development Corporation (ADC) in Galana and Kulalu.

Pursuant to the Schedule of Special Farms Rules 2001, Galana and Kulalu Ranches in Kilifi and Tana River Counties are ranches and are bounded by the Agricultural Development Corporation Special Farms Rules 2001. Therefore, if sub – division and planned disposal of the Galana and Kulalu Ranches in Kilifi and Tana River Counties were to take place, this shall be in line with the stipulated guidelines from the Agricultural Development Corporation Act (Cap 444) and the Agricultural Development Corporation Special Farms Rules 2001.

Statutory conditions by virtue of ADC Act Cap 444 Note- the land was declared a special farm.

1. Regulation 2 (2) No special farm shall be sold, subdivided, transferred or otherwise disposed of without the prior approval by way of a Bill of Motion to be approved by Parliament.
2. Any sale, subdivision, transfer or disposal of any special farm made in contravention of this rule shall be null and void, and no instrument relating to such transaction shall be registered under any written law for the time being in force requiring the registration of such instrument.

**3. The role of the National Land Commission in the protection of public land held by the Agricultural Development Corporation.**

**Honourable Chair,** we wish to respond as follows-

The National Land Commission role in the protection of public land held by the Agricultural Development Corporation is in the identification of that public land, preparation and keeping a database on the same, which shall be geo-referenced and authenticated by the statutory body responsible for survey. This is according to the Land Act, 2012, Section 8 -1(a).

In view of the same Land Act, where the National Land Commission highly borrows its mandates from, the National Land Commission role in protection of public land also entails the evaluation of all parcels of public land based on land capability classification, land resources mapping consideration, overall potential for use, and resource evaluation data for land use planning. Land Act, 2012, Section 8 -1(b).

The role of the National Land Commission in the protection of public land held by the Agricultural Development Corporation also involves requiring that land to be used for specified purposes and subject to such conditions, covenants, encumbrances or reservations as are specified in the relevant order or other instrument. Special Conditions on titles includes;

1. The land shall be used for Agriculture, conservation and tourism purposes.
2. The grantee shall not subdivide the land without prior consent in writing of the county Council (County Government).
3. The grantee shall not sell, transfer, sublet, charge or subdivide the land or any part thereof without prior written consent of the County Government, National Land Commission or Land Control Board.
4. The county council (County government), Director of Agriculture or any person duly authorized by them shall have the right to enter the land to ascertain the proper usage of the land.

In its role in the protection of public land held by the Agricultural Development Corporation, the National Land Commission prescribes guidelines for the management of public land by all public agencies, statutory bodies and state corporations in actual occupation or use of public land. Land Act, 2012, Section 10 - 1.

The National Land Commission protects public land held by the Agricultural Development Corporation by identifying ecologically sensitive areas that are within public lands and demarcating or taking any other justified action on those areas and act to prevent environmental degradation and climate change. Land Act, 2012, Section 11 - 2.

Pursuant to the Land Act, the National Land Commission will protect public land held by the Agricultural Development Corporation by ensuring that the investments in the land benefit local communities and their economies. Land Act, 2012, Section 12 - 4.

Protection of public land that has been reserved by the National Land Commission by ensuring that the land shall only be used for the purpose set out by the National Land Commission in the order designating the reservation. Land Act, 2012, Section 15 - 2.

**Honourable Chair**, we wish to also note that the National Land Commission protects public land by ensuring the management body submits to the Commission for approval a plan for the development, management and use of the reserved public land vested in the management body. And upon approval of the plans, the Commission notifies the management body of that fact, the management body may develop, manage and use the public land concerned in accordance with the plan as approved or subsequently varied as the case may be. Land Act, 2012, Section 17 - 1 & 3.

Additionally, the National Land Commission role in the protection of public land held by the Agricultural Development Corporation also involves revocation and management order in case the management body do not comply with stipulated guidelines and where the Commission considers it in the public interest.

**Hounourable Chair**, we wish to respond as follows-

4. **The role the National Land Commission if any, in the legitimate disposal of land held by the Agricultural Development Corporation (ADC).**

In pursuant of the Land Act Section 34 -1, section 16 – 2, and section 17 – 1 the National Land Commission should give consent for any sub – division of leasehold land subject to continuing intersts, shall vary the conditions for leasing and shall give consent for disposal of the land.

Honourable Chair, I Submit



**GERSHOM OTACHI BW'OMANWA**

**CHAIRMAN**