

**DRAFT RESETTLEMENT ACTION PLAN**  
**FOR THE PROPOSED 132KV**  
**ELDORET-KITALE TRANSMISSION LINE**



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**Document Authentication**

This report is prepared for:

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## **EXECUTIVE SUMMARY**

### **Introduction**

The Government of Kenya plans to increase access to electricity in Kenya tenfold from the current 4% in the rural areas to about 40% by 2020. To achieve this, the transmission lines network are being considered for construction and upgrading which will have the communication system required for line protection and management purposes. The Kenya Power and Lighting Company Limited (KPLC) least cost power development plan identified various 132 KV developments for improving the performance of the national grid network to cater for the increasing load growth and meet the objectives of 2030. KPLC is planning to construct a new single circuit 132 kV transmission line between Eldoret – Kitale measuring 65 Km.

The proposed project requires a wayleave of thirty metres (30m) for the 65km stretch totaling to 195Ha (487.5 Acres). The wayleave will have to be acquired from community members living in areas earmarked for the development between Eldoret and Kitale since no public land of the required magnitude exists in the project area. This need of wayleave for installation of the proposed project has necessitated the development of a Resettlement Action Plan (RAP) a requirement of the World Bank Operation Procedure (OP) 4.12 for the banks funded projects that lead to land acquisition and Resettlement.

The RAP forms parts of the Environmental and Social Impact Assessment (E&SIA) Study for the proposed project that was conducted in the project area by Otieno Odongo & Partners Consulting Engineers (OOP). The E&SIA study is a prerequisite of the Environmental Management and Coordination Act (EMCA), 1999 which requires all new projects undertake an E&SIA study at the project planning phase in order to ensure that significant impacts on the bio-physical and social environment are taken into consideration at the construction, operations and decommissioning stages. The National Environment Management Authority (NEMA) under the guidance of EMCA, 1999 also reviews the RAP as part of the E&SIA Study report before approval of the project in order to ensure that the environmental and social issues associated with land acquisition are adequately addressed and mitigation measures proposed.

### **Objective of the Resettlement Action Plan**

The overall objective of the RAP is to ensure that affected individuals, households and, affected or displaced communities are meaningfully consulted, have participated in the planning process and, are adequately compensated to the extent that at least their pre-displacement incomes or livelihoods have been restored or improved and, that the process has been a fair and transparent one.

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The objective of the RAP is achieved through collections of key indicative parameters describing the Project Affected Persons (PAPs) pre-impact status so as to enable develop an entitlement matrix aimed at restoring their livelihood to the pre-impact status or improving them where possible.

**The objective of the RAP is achieved by:**

- Enumerating the affected households by name and family details;
- Collecting demographic information on social classification, education and occupation of each family member ;
- Evaluating the skill base/ education level for each member and their total family income (from all sources) including details of income loss due to loss of land (from agriculture, plantation, labour and sharecropping), business etc;
- Identifying any vulnerable Project Affected Persons (PAPs) (women-headed household, family with physically and mentally challenged members, family with aged members, family with income below poverty line and family losing more than the economic threshold of their land through acquisition/ negotiation)
- Conducting inventory of all assets to be affected or damaged by the project including details on land ownership and extent of land loss due to the land acquisition/ negotiation. (Actual land ownership, and not only in terms of land records)
- Valuating affected assets at full replacement value and determining any supplementary payments e.g. unit price lists and itemized breakdowns of compensation offers and participation;
- Instituting valuation negotiations and devising grievance referral and redress procedures and mechanisms;
- Incorporation of external policies, procedures and institutional arrangements not covered by the Kenyan law;
- Conducting monitoring and evaluation of the PAPs after resettlement;
- Developing a timeline for the RAP; and
- Developing a Budget for all RAP activities.

**Approach and Methodology**

**Approach**

The approach of this exercise is consistent with the regulatory of procedures of the Land Acquisition Act (1995), The Land Act, the Wayleave Act, the Valuation Act, the Physical Planning Act, the Environmental (Impact Assessment and Audit) Regulations of 2003 a supplement of the Environmental Management and Coordination Act EMCA 1999, the KPLC Resettlement Policy Framework and the World Bank Safe-Guard Operation Policy (OP) 4.12.

The approach involved largely an understanding of the project background, the project area, the preliminary designs and the implementation plan. In addition, baseline information on the PAPs was obtained through physical investigation of the households and their surrounding environment, public consultations with PAPs, baseline surveys, photography, and discussions with the Proponent.

## Valuation of Methodology

The proposed project was screened based on the WB OP 4.12 criteria to determine whether the project and its related activities are likely to lead to resettlement. The screening aimed to identify the nature and diversity of potential impacts anticipated from the proposed project to enable develop measures to mitigate against them. This involved preliminary assessment on the need of land for the proposed project by conducting the following:

- Desktop study which involved review of previous studies documents and analysis of the proposed project maps;
- Field surveys to establish the proposed power transmission line route and its surrounding areas as indicated on the project maps and drawings; and
- Evaluation on the availability of land

The screening was followed by collection of primary data using the qualitative and quantitative methodologies of project assessment. The quantitative methodologies included:

- Conducting household census of identified PAPs;
- Conducting baseline socio-economic survey;
- Establishing number of land parcels affected by the project at the Lands Registry; and
- Assets valuation using substitution, anticipation and replacement methods of valuation.

The qualitative methodologies of data collection involved conducting public participation through public forums, interviews and focus group discussions.

The study methodologies enabled the consultants undertake the following;

- Consult with the Proponent (KPLC) regarding the proposed project details, the site planning and implementation plan,
- Desk review of available documentation on the proposed project,
- Field investigations of the proposed wayleave, photography, surveys, and discussions with people from the immediate neighbourhood.
- Rapid participatory assessment methods using data collection tools such as literature review, questionnaires, observation, geographical positioning system device (GPS), and in-depth interviews as well as public consultative meetings;
- Identify the households affected, the assets (houses, kiosks etc) likely to be lost and/or, damaged due to the project, the community infrastructure in the project areae.g. schools, churches, trees etc.
- Interview three hundred and forty six (346) likely PAPs along the project corridor located in Pioneer, Kamagut, Soy, Lukuyani, Mois Bridge, Waitaluk and Kibomet locations located in Wareng, Eldoret West, Uasin Gishu, Lugari, Trans Nzoia West, and Trans Nzoia East districts; ;
- Hold discussions with PAPs and key stakeholders including District Administration, NGOs, CBOs and Faith based Organizations;
- Evaluate the project setting and baseline conditions;
- Analyse the potential impacts of the proposed project on the biophysical and socio cultural/ economic environment;

- Formulate appropriate mitigation measures including evaluation of alternative routes, development of: an entitlement matrix, Community Involvement Programme (CIP), Grievances Referral and Redress mechanism (GRRM), RAP implementation plan and budget, Monitoring & Evaluation (M&E) framework, and guidelines for capacity building for the RAP implementation; and
- Report writing.

## **Land Acquisition, Compensation and Resettlement**

In Kenya, land expropriation is provided for in the Constitution under section 75 for private land and sections 117 and 118 for unregistered Trust Land. Section 75(1) of the Constitution provides for the Government to take possession of private land if it is deemed necessary for public interest. The constitution however only provides general guidelines but detailed procedures for acquisition are elaborated under the Land Acquisition Act in Chapter 295 for private land and Chapter 288 for unregistered Trust Lands.

In general, land use rights can be withdrawn by the state in the public interest. However, the state has the responsibility for paying fair compensation for any losses and improvements. There is no specific resettlement policy and regulatory framework in Kenya. The land law only specifies compensation payment for expropriated land, which is done in the public interest. It is silent on compensation issues such as the principles, forms, eligibility, valuation, adequacy, procedures, timing and responsibilities.

There is no legal mechanism for affected persons to appeal against compensation paid or other resettlement measures. The only legal recourse available to affected persons is the courts of the country and to some extent the National Environment Management Authority (NEMA) under the guidance of the Environmental Management and Coordination Act (EMCA) of 1999 which aims to ensure that all known and expected negative Environmental and Social Impacts of a proposed project are identified and mitigated against before the project can be granted approval to commence. NEMA institutes the RAP by requiring developers to conduct public participation and ensure that the PAPs opinion are recognised and considered during project planning. This principle of the EMCA ensures that the interest of the PAPs is safeguarded as NEMA requires the project proponent to present the project proposal in form of an Environmental Impact and Social Assessment Report giving details on the project, identified impacts and their mitigation measures before it approves the project. As part of the impact mitigation for project leading to displacement, NEMA also reviews the RAP documents for adequacy. Despite that, the EMCA at times does not fully address the issues of projects involving resettlement. At times the issues of resettlement are well handled at community levels especially where communities have well-established local mechanisms for conflict resolution such as land issues resolution committee, area development committees or village elders. This community level conflict resolution groups are normally respected and the community members tend to adhere to their opinion or decisions as long the community consider the judgment to be fair.

In the absence of a comprehensive legal resettlement policy or mechanism in the country where the World Bank sponsored development is taking place, the requirements of WB OP 4.12 becomes the operational policy framework for all sub-projects that results to displacement.

According to the World Bank, affected people, refers to people who are directly affected socially and economically by the Bank-assisted investment projects. In the preparation of RAP for the bank funded project, the donor requires that the affected people should:

- Be meaningfully consulted and should have opportunities to participate in planning and implementation of the resettlement programs; and
- Be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or levels prevailing prior to the beginning of project implementation, whichever is higher.

The field surveys and desktop studies undertaken for the proposed project indicated that, the proposed power transmission line shall traverse three hundred and fourty six land parcels of which majority are private land with a few trustlands.

### **Compensation and Resettlement Procedures**

The procedures of land acquisition requires that before acquisition is undertaken, the PAPs should be adequately consulted on the proposed project, be compensated before the proposed project commences, given notice in advance to vacate the land, allowed to salvage materials or property on site, harvest crops etc. The principle of compensation should be based on the following;

- Compensation should be paid prior to acquisition or displacement;
- Compensation should be at replacement cost;
- Compensation for structures shall include: the full cost of materials and labour required for reconstructing a building of similar surface and standing. In other words, the affected person must be able to have their structure rebuilt in a different location using the compensation paid for the old building;
- Depreciation of property value should not be taken into account while calculating the cost of affected structures; and
- The Compensation package should also include cost of moving, such as transport costs, income restoration costs as well as any associated land titling or transfer fees.

Compensation can be monetary or in kind but whatever form of compensation that is settled on, it should also take into consideration not only the property lost but also non-monetary and non-income losses incurred by the PAP including relocation inconvenience, aesthetic loss if environment is serene and general emotional stress.

PAPs who shall be physically relocated compensation should included identification and provision of resettlement sites and construction of houses and consideration of the impact of displacement on income generation. Other factors to consider during compensation should include:

- The age distribution of the PAPs as senior members of the community and other vulnerable groups will require support in the resettlement exercise;
- Availability of social and economic infrastructure in the project and/or resettlement area for example school, clinics, financial institutions, socio-cultural facilities, transport facilities;

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- Transport during relocation to cushion the PAPs from added costs which will lead to financial stress particularly on senior community members; and
- Processing fees for acquisition of property ownership including administrative and legal fees incurred for example title deeds processing fee, conflict resolution fees among others.

Compensation should also consider Corporate Social Responsibility (CSR) programmes that enable provide non-cash compensation and assistance to the entire community in the project area in form of developing projects of priority to the community like water projects e.g borehole drilling, road repairs, development of schools, clinics and educational campaigns on health among others. The compensation package is summarized in an entitlement matrix.

Compensation Payment and Procedures should be agreed on, disclosed to the PAP through consultation, supervised by qualified person and be adequately documented. In kind compensation should be conducted according to the Land Acquisition Act and should include fees of obtaining new title deeds, legal fees etc. Assignment of plots and houses to eligible persons should be transparent and fair and be based on the criteria of the RPF and the guiding principles of resettlement.

Majority of the PAPs in the area earmarked for the installation of the transmission line indicated that they would prefer monetary compensation for their loses as the proposed project will only affect sections of their land and thus not affect the sustainability of the remaining section. The minority that considered that the proposed project will adversely affect them by leaving them unsustainable land parcels and at the same time lead to their displacement , proposed that the alignment of the proposed transmission line be re-aligned to areas where community members have large parcels of land in order to avois displacement.

### **Entitlement Matrix**

The Entitlement matrix summarises the nature of compensation and the type of assistance to be given to PAP after evaluation of the parameters of land acquisition and modalities of compensation that may be used during the project. The parameters to be evaluated take into consideration the type of landownership, value of property, land use, income lost, project impacts and mitigation plans to be implemented and procedures for delivery of compensation. The entitlement matrix outlined below defines the type of compensation and assistance to be provided to the different categories of project affected households.



Table 1 (a) Entitlement Matrix and Number of PAPs Per Category of Entitlement

NO	Types of Loss	Unit of entitlement	Entitlements	Number of PAPs in category/Affected Project
<b>A. Loss of Agricultural Land</b>				
1	More than 20% of land or residual land is viable	(a) Title holder/Free Hold Land	<ul style="list-style-type: none"> <li>• Cash compensation at replacement cost for the portion surrendered.</li> <li>• Compensation for any immovable structures at replacement cost including the right to salvage)</li> </ul>	287
		(b) Tenants	<ul style="list-style-type: none"> <li>• Cash compensation in lieu of unexpired lease</li> <li>• Advance notice to vacate.</li> </ul>	
		(c) Encroachers	<ul style="list-style-type: none"> <li>• Advance Notice to vacate. Right to harvest all seasonal crops</li> </ul>	
	More than 20% of land lost or residual land is economically non-viable	(a) Title holder	<ul style="list-style-type: none"> <li>• Cash compensation at replacement cost for the lost portion. Landowner may wish to surrender remaining portion at replacement cost.</li> <li>• Transitional grant of ksh. 60,000 the equivalent of 12 months minimum wage.</li> </ul>	-
2		(b) Tenants	<ul style="list-style-type: none"> <li>• Cash compensation in lieu of unexpired lease</li> </ul>	-
		© Encroachers	<ul style="list-style-type: none"> <li>• Advance Notice to vacate. Right to harvest all seasonal crops</li> </ul>	-
<b>B. Loss of residential/commercial/industrial land</b>				
1	Partial loss of land but residual is viable	(a) Title holder/Free Hold Land	<ul style="list-style-type: none"> <li>• Cash compensation for loss at replacement cost</li> </ul>	7
		(b) Tenant/Leaseholder	<ul style="list-style-type: none"> <li>• Reimburse equivalent of unexpired lease to 12 months</li> <li>• Transitional allowance equivalent to 3 months income</li> </ul>	-
		© Squatters	<ul style="list-style-type: none"> <li>• Transitional allowance equivalent to 3 months income</li> </ul>	-
2	Entire loss of land	(a) Owners	<ul style="list-style-type: none"> <li>• Cash compensation for entire land holding at replacement cost</li> <li>• Equivalent land with access to same or better facilities as lost land. Or</li> <li>• Cash assistance equivalent to 12 months income</li> </ul>	-
		(b) Tenants/Lease holders	<ul style="list-style-type: none"> <li>• Reimburse equivalent of unexpired lease to 12</li> </ul>	-

NO	Types of Loss	Unit of entitlement	Entitlements	Number of PAPs in category/Affected Project
			months, <ul style="list-style-type: none"> <li>• Transitional allowance equivalent to 3 months income</li> </ul>	
		©Squatters	<ul style="list-style-type: none"> <li>• Transitional allowance equivalent to 3 months income</li> </ul>	-
<b>C. Loss of structures</b>				
1	Partial loss but residential viable	(a)Legal User with valid titles	<ul style="list-style-type: none"> <li>• Cash compensation at replacement cost for affected portion calculated on MOW rate without depreciation;</li> <li>• Repair costs equivalent to 25% of the compensation</li> <li>• Right to salvage material</li> </ul>	-
		(b) Owner without titles	<ul style="list-style-type: none"> <li>• Cash compensation at replacement costs for affected portion based on MOW rate depreciation.</li> <li>• Repair costs for unaffected structure at 25% of compensation</li> <li>• Right to salvage material</li> </ul>	-
		©Squatter	<ul style="list-style-type: none"> <li>• Right to salvage material</li> </ul>	-
2	Fully affected/part affected and remaining structure is non-viable	(a)Land owner with valid title/customary land	<ul style="list-style-type: none"> <li>• Cash compensation at replacement cost of the affected unit based on MOW rates without depreciation plus a house building allowance at 25% of compensation.</li> <li>• Subsistence allowance equivalent to six months or minimum wage for unskilled labour</li> <li>• One time shifting allowance of ksh 5000</li> <li>• Right to salvage materials.</li> <li>• (mention the possibility of providing alternative house site or houses)</li> </ul>	79
		(b)Tenant/Lease Holder	<ul style="list-style-type: none"> <li>• Subsistence allowance for three month equivalent rental value</li> <li>• A onetime shifting allowance of ksh 5000</li> <li>• Right to salvage materials</li> </ul>	30
		©Squatter	<ul style="list-style-type: none"> <li>• Cash compensation at replacement cost of the affected unit based on MOW rates without</li> </ul>	-

NO	Types of Loss	Unit of entitlement	Entitlements	Number of PAPs in category/Affected Project
			depreciation plus a house building allowance at 25% of compensation. <ul style="list-style-type: none"> <li>• Subsistence allowance equivalent to three months or minimum wage for unskilled labour</li> <li>• One time shifting allowance of ksh 5000</li> <li>• Right to salvage materials.</li> </ul>	
<b>D. Loss of Income</b>				
1	Loss of employment	PAP	<ul style="list-style-type: none"> <li>• Subsistence allowance equivalent to 3 months minimum wages for unskilled agriculture workers.</li> <li>• A lump sum payment of ksh100,000 to help recreate a viable livelihood.</li> <li>• Skills development for PAPs in this category.</li> </ul>	-
2	Loss of rental income		<ul style="list-style-type: none"> <li>• Subsistence allowance equivalent to 12 months rental income value</li> </ul>	40
3	Loss of income from business	(a)Owners	<ul style="list-style-type: none"> <li>• Cash grant equivalent to one year minimum wages based on local labour laws or for audited business, cash grant equivalent to one year income as an average of the previous three years.</li> </ul>	75
		(b)Employees	<ul style="list-style-type: none"> <li>• Lump sum maintenance allowance equivalent to 3 months of minimum wages as per local guidelines.</li> </ul>	150
		c)Hawkers	<ul style="list-style-type: none"> <li>• Subsistence allowance for 3 months at the equivalent of minimum wage guideline.</li> <li>• A one off shifting allowance of ksh 5000</li> </ul>	-
<b>E.Loss of standing crops</b>				
		All Cultivators	<ul style="list-style-type: none"> <li>• Cash compensation based on the annual market value</li> </ul>	Depends on time of project

NO	Types of Loss	Unit of entitlement	Entitlements	Number of PAPs in category/Affected Project implementation
			of target crops for the previous 3 years.	
<b>F. Loss of community propriety resources</b>				
			<ul style="list-style-type: none"> <li>Provide the resource afresh or relocate to new site.</li> </ul>	-5 shopping areas in Kamgut. Longisan Ex-Cullen, Meja and Mois Bridge, -Western View Community Primary Schools, Pioneer location -Kamagut Primary Schools, Kamagut; -AIC Kilimo church and AIC Tenai Primary School in Ex-Cullen -Lamp Lighter Primary Boarding School, Waitaluk -Kibomet Primary School, Kibomet
<b>G. Unidentified Impacts</b>				
			Mitigation measures will be proposed based on the principle of the this RFP	

## **Income and Livelihood Restoration**

The main objectives of the RAP is to develop programmes that aims to improve the livelihoods of PAPs or restored to pre-displacement levels. It is vital for the affected persons to retain their ability to maintain their survival activities after the land acquisition and/or resettlement process. Therefore, programmes should be developed to ensure that the livelihoods of PAPs are restored as much as possible. The programmes should be adequately budgeted for and should include skill development and, capacity building of the PAPs, appropriate selection of the resettlement areas which should largely be determined by its suitability to restore income.

When developing programmes for income restoration the evaluation process should holistically consider all the losses the PAPs are likely to incur including direct income lost, separation of people dependent on each other even in social networks more significantly from their kinship networks, delineating people from social services (schools, credit facilities etc). For example where impact on land use is such that sustainability of livelihoods may be affected, preference should be given to land-for-land compensation rather than cash payouts. This applies to people who are not necessarily physically displaced but who are affected by a land loss that affects their sustainability.

The field studies conducted in the proposed project area indicated that, land occupied by five (5) shopping areas namely Kamagut, Longisan, Mois Bridge, Meja and Ex-Cullen was earmarked for development. The trading centres mainly sell basic commodities and provided services such as medical services, have food outlets and stationery among others. This will mean atleast one hundred and fifty people will loose their livelihoods due to the demolition of the structures. The categories to be affected include property owners, traders (business premise tenants) workers, medical officers and community members who depend on the services offered at the trading centres. It will be vital to develop mitigation measures to ensure that the proposed project area is either preserved by re-aligning the transmission line from the sections occupied by the trading centres or by developing appropriate compensation programmes that includes developing of new trading centres to replace the lost ones capacity building in income restoration.

## **Assistance to Vulnerable Groups**

There is need for providing additional support to the vulnerable groups to facilitate faster adjustment in the new environment and impacts associated with the project incase resettlement takes place. Vulnerable households may have different land needs from other households, or needs unrelated to the amount of land available to them. Vulnerable PAPs in the project area include women headed households, widows and the elderly people (60-70).

## **Institution Arrangement**

Land acquisition, resettlement implementation and management is usually a major issue in the project implementation process and this call for the need of appropriate institutional framework for all concerned parties including the client. It is always important to ensure timely establishment and effective functioning of appropriate organizations mandate that is capable to plan and implement land acquisition, compensation, relocation and, income and livelihood restoration programs. The organizational structure or the institutionnal capability should be elaborates on the role of various stakeholders in the implementation and, administration of the RAP and it should also clarify the role of PAPs and their responsibility in the entire process.

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The implementing agency KPLC should develop a Project Implementation Unit (PIU) which should be able to provide adequate resources for the RAP implementation including coordination with other key stakeholders in other governmental departments.

### **Institutions responsible for the resettlement Activities**

It is recommended that an institutional framework be developed by the KPLC that shall involve other key stakeholders in the implementation of the RAP. Key stakeholders and institutions to be involved in the process of land acquisition, compensation and resettlement for the PAPs should include:

- Ministry of Environment and Mineral Resources.
- The Ministry of land.
- Ministry of Agriculture
- Ministry of Housing and Settlement
- Kenya Power & Lighting Co. Ltd.
- Ministry of Trade
- Ministry of Education
- National Environmental Management Authority (NEMA) Officer
- Local Councils
- Respective village committees
- Provincial administration
- NGOs with legitimate interests
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The involvement of the stakeholders should be through the Resettlement Steering Committee (RSC) which should be formed at the district level. A PAP Committee (PC) at the project level should also be formed and each of the institutions forming the RSC should be represented in the PC. The committee members should have a collective role to play in the implementation of the RAP for it to be successful.

Resources for implementing the RAP should be included in the RAP budget and the capacity and commitment of the institution to implement the RAP should be assessed. Strengthening of the institutions should also be considered if necessary and the steps that should be taken together with a timetable and budget for implementing the RAP should be described. Involvement of the local people and NGOs in planning, implementation and monitoring resettlement should also be incorporated in the project plan.

The size of the RAP committees, its formation, its functions and terms of reference will depend upon the extent of the land acquisition and numbers of PAPs. As a preliminary six RSC will be required to represent each of the six districts that the proposed transmission line shall traverse. The RSC should work with the respective administration representatives in the specific project area to form the PC which should adequately represent the PAPs at the project level.

It is recommended that, The RSC should meet at least twice a month in the initial steps of RAP implementation for the first two months then in subsequent months meet at least once a month.

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It is also recommended that the PIU engages a qualified social expert upon approval of the RAP, to undertake the implementation exercise. The duties of the agent will include, but not be limited to, liaising with the civil works contractor, the PAPs and other key stakeholders.

### **Grievance Referral and Redress Mechanism**

Grievance redress mechanisms are essential tools for allowing affected people to voice concerns about the resettlement and compensation process as they arise and, if necessary, for corrective action to be taken expeditiously. Such mechanisms are fundamental to achieving transparency in the resettlement process.

It is recommended that all disputes arising from the project should be referred to the PC at the project level and then if necessary, the RSC or the PIU will be asked to provide recommendations as to how it is to be addressed. If deemed necessary by the PAP committee the case should be re-investigated and, depending on the nature of the issue, referred to the National Environmental Tribunal or Public Complaints Committee or the courts.

The procedure for Grievances Settlement should be as follows;

- Grievances is filed by the person affected by the project to the chairperson of PC representing the project area. The chairperson should record the grievance, try and solve problem with PAP and at the same time report the grievance to the RSC through a selected representative. If the grievance is not solved at the PC level the RSC should be asked to sought for a resolution.
- If no understanding or amicable solution can be reached, or if the affected person does not receive a response from the representative within a reasonable space of time, then the chairperson shall seek redress from the PIU who should respond within a given and stipulated time framework after receipt of the complaint.
- If the affected person is not satisfied with the decision of the PIU, he/she, as a last resort, may submit the complaint to a court of law.

All complaints received in writing (or written or received verbally) should be documented.

### **Monitoring and Evaluation**

Monitoring helps evaluate the success of resettlement through the study of specific performance indicators for a reasonable period of time after the resettlement activities have been completed. This involves developing monitoring and evaluation protocol through analyzing parameters that can give information on the status of the resettlement activities. The parameters can be developed by the implementing agency or independent monitors ( supplement the role of the implementing agency) with the aim of measuring inputs, outputs and, outcomes of resettlement activities and for evaluating impacts in order to ensure the objectives of the RAP are completely met.

Monitoring and evaluation will assist in ensuring that compensation measures are correct, all eligible persons have received their entitlements and that implementation of the RAP is proceeding well. Some of the indicators requiring monitoring include;

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- Input indicators e.g. sources and amounts of funding for various RAP activities;
- Output indicators that concern activities and services which are produced with the inputs e.g. payment of compensation for loss of property;
- Public participation indicators e.g. creation of Resettlement Steering Committee,
- Outcome indicators that are designed to cushion the PAPs from the stress of relocation e.g. restoration of PAPs incomes and satisfaction in reinstatement activities;
- Impact indicators which assess the change in living standards of PAPs e.g. whether the RAP is effective in maintaining or restoring the social standing of the PAPs, especially the vulnerable groups.

### **Resettlement Plan and Implementation Schedule and Cost Estimates**

The implementation and management of the RAP schedule should be designed to facilitate the

- Implementation of the RAP activities within an agreed time frame and budget.
- Timing should be appropriate to avoid fake claimants for compensation especially if situation arises where site clearing begins immediately before cut-off date or on the other hand the project implementation starts late;
- It is appropriate RAP implementation commences as soon as the sponsor (World Bank) gives approval in order to minimize the anxiety of the PAPs. This should include disclosure of the RAP to the community members by the implementing agency and engagement of a contractor.
- Implementation schedule should avoid site preparation and relocation during the rainy seasons or seasons of cultural activities.

The RAP will require that an implementation mechanism be in place for the delivery of the entitlement package. An implementation schedule (RAP Action Plan) covering all the resettlement activities from preparation through implementation to monitoring and evaluation has been developed for this RAP. The RAP Action Plan gives an outline of the activities to be undertaken stating the duration of undertaking the activities, expected dates for achievement of outcomes or termination of the activity.

The appropriate strategy of implementing the Action Plan is by delineation of roles and responsibilities of organizations/ institutions, as well as community groups, setting out the procedures to be followed along with provision of the support facilities and a timeframe for implementation of each of the activities. The responsibility for the Action Plan implementation lies with the PC under the supervision of the RSC and coordination by the PIU. The key activities considered in the RAP implementation schedule are:

- Formation of the coordination and implementation committees namely the Project Implementing Unit (PIU) and the Resettlement Steering Committee (RSC);
- Community Consultation Programmes and Issuance of Eligibility Notice;
- Land Survey and Valuation of Assets;
- Verification of socio-economic survey and collection of M&E Baseline Data;
- Formation of PAP Committee (PC);
- RAP Stakeholder Consulting including meeting of the implementation committees;

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- PC Comments on RAP
- Alternative land survey
- Issuance of Identity Cards
- PC signs Compensation Offer
- Announcement of Compensation Offer
- Confirmation of Resettlement Sites
- Land Acquisition
- Payment of Compensation
- Introduction to host community
- Preparation of Resettlement layout and design maps and Plot Demarcation
- Construction of New Structures where applicable
- Movement of PAPs to New Site or provision of agreed compensation
- Moving assistance and Land clearance
- Rehabilitation and Income Restoration
- Community Development (if deemed appropriate or necessary)
- Reporting
- M&E- Internal Impact Monitoring
- M&E-External Impact Monitoring
- Reporting

The RAP process should be coordinated in such a way that the compensation and resettlement process takes place simultaneously in the six districts to enable it take a maximum of twelve (12) months to implement. The 12 months period will also cover the development of new housing structures and restoration of incomes. The PIU is recommended to engage atleast six (6) Implementing Agents (IA) to oversee the RAP process.

### **Community Engagement Requirements**

The RAP team will develop a community engagement plan as a first step towards informing the community about the project, its impacts and entitlement framework. It should include a description of the implementation mechanism to be set in place for delivery of the entitlement packages. The plan shall be according with the requirements of this plan, good industry practices and the Worldbank Safeguard Policies BP 17.50 on Public Disclosure

### **The RAP Budget**

The resettlement compensation cost for the proposed project includes the cost of land compensation, compensation for damaged structures, compensation for disturbed vegetation (trees, tea bushes, coffee bushes), compensation for lost income, resettlement transportation allowance, training of the PAPs in income generating activities and developing their capacity to maintain reasonable standards of hygiene in the resettlement sites.

Based on the results of the socio-economic study and valuation of assets conducted in October and November 2010, a breakdown of compensation estimates is as shown below. The basis

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adopted for valuing the below indicated properties is based on the 2009/2010 open market comparables on replacement costs as at the day of the study.

The estimated cost of land to be acquired based on market rate of the land value in the project is as follows:

- Open Market Value (Kenya Shillings: Eleven Million Six Hundred Thousand).
- Compensation Value: (Kenya Shillings: Thirteen Million Six Hundred and Twenty Thousand).



Plate1: Building Structure located between point B-C



Plate 2: Local community traversing project area between point B and C



Plate 3: Public infrastructure and maize crop on land earmarked for development in Kamagut area



Plate 4: Lone standing housing structure on 100 acres of land in Soy near point H



Plate 8: Housing structure at point A3 in Ex-Cullen



Plate 9: Land with wattle tree plantation at point A3 in Ex-Cullen

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Table 1 (b) RAP Cost Estimates

Item	Categories	Unit	Quantity	Unit Price Ksh.	Compensation Cost Ksh.
Land Acquisition for development of transmission line		Acres	7.5	2670,000	20,000,000
			75	467,000	35,000,000
			75	367,000	27,500,000
			150	417,000	62,500,000
			112.5	355,555	40,000,000
			45	389,000	17,500,000
			22.5	1,222,500	27,500,000
<b>Sub-Total 1</b>			<b>487.5</b>		<b>230,000,000</b>
Land Acquisition for development of new houses		Acres	2	26 70,000	5340000
			3	500,000	1500000
			60	400,000	24000000
			<b>Sub-Total 2</b>	65	
Reconstruction of Primary Schools		No.	5	3,500,000	17,500,000
Reconstruction of Trading Centres		No.	6	2,000,000	12,000,000

Item	Categories	Unit	Quantity	Unit Price Ksh.	Compensation Cost Ksh.
Reconstruction of a church		No.	1	2,000,000	2, 000,000
Resettlement Site, preparation, Site clearance and Grading Road		m <sup>2</sup>	10,000	2,000	20,000,000
Reconstruction of New Houses	Low Cost 02 bedroom	m <sup>2</sup>	6	500,000	3,000,000
	Medium Cost 03 bedroom	No.	59	2,000,000	108, 000,000
<b>Sub-Total 3</b>					<b>162,500,000</b>
Compensation for Trees		No.	500	5,000	2,500,000
Compensation moving expenses and allowance-Transport Assistance to Resettlers		No.	95	30,000	2,850,000
Compensation to Tenants		No.	12*75	5,000	4,500,000
Compensation to Landlords		m <sup>2</sup>	8500	1600	13,600,000
Compensation to business		No.	12*75	6,000	5,400,000
Compensation Skill development and capacity building	Health and Hygiene education				5,000,000

Item	Categories	Unit	Quantity	Unit Price Ksh.	Compensation Cost Ksh.
	Agriculture				5,000,000
	Enterprise training and job creation				1,000,000
	Community participation and management				5,000,000
	PAPs empowerment				5,000,000
<b>Sub-Total 4</b>					<b>49,450,000</b>
<b>Professional Services</b>	Key Stakeholders Allowances	Days	60*12*6	5,000	21,600,000
	Implementing Agent	No.	6*12	3,000,000	21,600,000
	Monitoring and Evaluation Unit	No.	6*3	3,000,000	5,400,000

<b>Item</b>	<b>Categories</b>	<b>Unit</b>	<b>Quantity</b>	<b>Unit Price Ksh.</b>	<b>Compensation Cost Ksh.</b>
	Completions Audit	No.	1	Lump	500,000
<b>Sub-Total 5</b>					49,100,000
Sub-Total (1+2+3+4+5)					522,290,000
Inflation					
Unmeasured Items at 5%					26,114,500
<b>TOTAL</b>					548,404,500

## **Key Findings and Public Concerns**

The field visits, household census and baseline surveys were conducted from October 2009 to November 2009 in the proposed project area and the following were the key study findings;

- The proposed project initially fell under three (3) districts namely Uasin Gishu, Lugari and Trans Nzoia but currently fall under six districts namely Wareng, Eldoret West, Uasin Gishu, Lugari, Trans Nzoia East and Trans Nzoia West.
- The major land use to be traversed by the proposed line is privately owned agricultural land. Other land uses in the project area included private and governmental institutions, schools, trading centers, public infrastructure among other uses. It was noted that the individuals with large parcels of lands including agricultural land can still put their land under the same purpose or other project friendly purposes after the installation of the transmission line. The major agricultural crops to be affected by the project include wheat and maize;
- The proposed project is likely to affect the Kamagut, Longisan, Meja, Ex-Culle, Mois Bridge and Kapkoi trading centres located within the proposed wayleave. This will impact on sources of livelihood for the traders and accessibility to services by the PAP dependent on them. The socio-economic activities likely to be affected by the proposed project include small scale business outlets, educational centres, clinics, gravel harvesting
- Public consultations with the key stakeholders and PAP affected people indicated that the community members with large land parcels have no problem with the installation of the proposed project as long as they are adequately compensated and trained on how to co-exist with the proposed transmission line.
- Community members in dense settlement areas namely Longisan, Kamagut, Matunda, Meja and Mois Bridge trading centres which also forms the peri-urban and economic centres of the project area suggested that the lines traversing those areas be re-routed to areas with less dense settlement such as agricultural areas in order to reduce resettlement impacts and disturbance of their source of livelihood.
- The proposed project will lead to displacement of at least 455 PAP residing in 65 households located within the proposed wayleave in Western View Farmers, Kipkenyo, Mukunga B, Meja, Kapkoi, Wekhoya, Kapkoi sisal;
- The proposed project will affect five schools and one church namely; Western View Community Primary Schools in Pioneer location, -Kamagut Primary Schools in Kamagut; AIC Kilimo church and AIC Tenai Primary School in Ex-Cullen, Lamp Lighter School in Kapkoi Siasal, Waitaluk and Kibomet Primary School in Kibomet.
- Majority of the PAP have nucleus families with headed by a father and who is the decision maker in the household; Most of the PAP preferred the monetary form of compensation equivalent to the lost property;
- Majority of the PAPs own the land they occupy by inheritance but do not have land ownership documents;

Conclusion and Recommendation

### **Recommendation**

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The following is recommended to ensure the successful implementation of the RAP:

- Alternatives of the proposed project route should be evaluated further to facilitate reduce the number of property likely to be damaged and number of people to be relocated;
- The implementing agency (KPLC) should develop appropriate structures for implementing the RAP and adequate funding should be availed;
- Continuous public consultation should be conducted in the project area and the PAPs should be made aware of the RAP schedule in adequate time;
- The RAP schedule should include all key RAP activities that include: formation of coordination and implementation committees, M&E, income and livelihood restoration, assistance to vulnerable people, development of inter-agency committees, grievance referral and redress mechanism among others.
- Compensation should be paid prior to acquisition or displacement and should be at replacement cost;
- Compensation for structures shall include: the full cost of materials and labour required for reconstructing a building of similar surface and standing. In other words, the affected person must be able to have their structure rebuilt in a different location using the compensation paid for the old building;
- Depreciation of property value should not be taken into account while calculating the cost of affected structures; and

## **Conclusion**

The proposed project is important for the economic development of the area but it is likely to lead to loss of property and displacement of a number PAP. The overall objective of the project is good and its positive impacts can be enhanced by ensuring that the identified PAP are adequately compensated with the aim of improving their livelihoods or restoring their livelihoods to the pre-impact standards. To achieve this the implementing agency (KPLC) should ensure that appropriate RAP implementation programmes and adequate funds are availed to meet the requirements of the RAP.

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## **Acronyms**

**WB** World Bank

**BP** Best Practices

**DFI** Development Finance Institutions

**EAP** Environmental Action Programmes

**EIA** Environmental Impact Assessment

**ESIA** Environmental and Social Impact Assessment

**EIB** European Investment Bank

**GRRM** Grievance Referral and Redress Mechanism

**IFC** International Finance Corporation

**LPAP** Land Purchase Assistance Programme

**MCM** Municipal Council of Mombasa

**O&M** Operations and Maintenance

**PAPs** Project Affected Persons

**PAH** Project Affected Households

**PCDP** Public Consultation and Disclosure Plan

**PIM** Project Information Memorandum

**RAP** Resettlement Action Plan

**RPF** Resettlement Policy Framework

## **Definitions of Key Terms**

**“Census”** means a field survey carried out to identify and determine the number of Project Affected Families/households/Persons (PAF/PAH/PAP) or Displaced families (DFs). The meaning of the word shall also embrace the criteria for eligibility for compensation, resettlement and other measures emanating from consultations with affected communities.

**Compensation** means the payment in kind, cash or other assets given in exchange for the acquisition of land including fixed assets thereon.

**Cut-off-date-** is the date of commencement of the census of PAPs or DPs within the project area boundaries. This is the date on and beyond which any person whose land is occupied for project use, will not be eligible for compensation.

**Displaced Persons** mean persons who, for reasons due to involuntary acquisition or voluntary contribution of their land and other assets under the project, will suffer direct economic and or social adverse impacts, regardless of whether or not the said Displaced Persons are physically relocated. These people will have their: standard of living adversely affected, whether or not the Displaced Person must move to another location ; lose right, title, interest in any house, land (including p remises, agricultural and grazing land) or any other fixed or movable assets acquired or possessed, lose access to productive assets or any means of livelihood.

**Encroachers** mean those people who move into the project area after the cut-off date and are therefore not eligible for compensation or other rehabilitation measures provided by the project.

**Entitlement** means the range of measures comprising cash or kind compensation, relocation cost, income rehabilitation assistance, transfer assistance, income substitution, and relocation which are due to /business restoration which are due to PAPs, depending on the type and degree nature of their losses, to restore their social and economic base.

**Full Cost of Resettlement** Compensation based on the present value of replacement of the lost asset, resource or income without taking into account depreciation.

**Income Restoration** means the measures required to ensure that PAPs have the resources to *at least* restore, if not improve, their livelihoods.

**Indigenous peoples** mean the people indigenous to an area and include ethnic minorities as defined by IFC’s Performance Standard 7 on indigenous peoples.

**“Involuntary Displacement”** means the involuntary acquisition of land resulting in direct or indirect economic and social impacts caused by: Loss of benefits from use of such land; relocation or loss of shelter; loss of assets or access to assets; or loss of income sources or means of livelihood, whether or not the Displaced Persons has moved to another location; or not.

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**”Involuntary Land Acquisition”** is the repossession of land by government or other government agencies for compensation, for the purposes of a public project against the will of the landowner. The landowner may be left with the right to negotiate the amount of compensation proposed. This includes land or assets for which the owner enjoys uncontested customary rights.

**Involuntary Resettlement** refers both to physical displacement (relocation or loss of shelter) and to economic displacement (loss of assets or access to assets that leads to loss of income sources or means of livelihood) as a result of project-related land acquisition. Resettlement is considered involuntary when affected individuals or communities do not have the right to refuse land acquisition that result in displacement.

This occurs in cases of: (i) lawful expropriation or restrictions on land use based on eminent domain; and (ii) negotiated settlements in which the buyer can resort to expropriation or impose legal restrictions on land use if negotiations with the seller fail. In the event of adverse economic, social, or environmental impacts from project activities other than land acquisition (e.g., loss of access to assets or resources or restrictions on land use), such impacts will be avoided, minimized, mitigated or compensated for through the social and environmental assessment process of the World Bank OP 4.01 on social & environmental assessment and management system.

**Land acquisition** means the process whereby a person or household is involuntarily alienated from all or part of the land s/he owns or possesses, to the ownership and possession of a project for public purposes, in return for fair compensation.

**“Land”** refers to agricultural and/or non-agricultural land and any structures thereon whether temporary or permanent and which may be required for the Project.

**”Land acquisition”** means the repossession of or alienation of land, buildings or other assets thereon for purposes of the Project.

**Lease holder**-means s land user who has obtained temporary usage of the land on account of having entered into a lease agreement with the owner.

**Local Authority** is either a County Council or Municipal Council whose activities are established and controlled by Local Government Legislation.

**Market Value**-means the selling price of a commodity in the open competitive market.

**Project Affected Person (PAP)**- means the same as displaced person within the meaning of World Bank Safeguard Policy 4.12 on land acquisition and involuntary resettlement, and means any person experiencing loss of asset, access to income whether of a temporary or permanent nature due to the land acquisition process regardless of whether they are physically displaced or relocated or not. The Kenya Municipal Program prepared by the Local Government also gives a similar definition for the PAPs.

**Project Affected Household** means the family or collection of PAPs that will experience effects from land acquisition regardless of whether they are physically displaced or relocated or not.

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**Rehabilitation Assistance”** means the provision of development assistance in addition to Compensation such as moving and subsistence allowance, land preparation assistance, credit facilities, training, or job opportunities, needed to enable Displaced Persons to improve their living standards, income earning capacity and production levels; or at least maintain them at pre-Project levels.

**Relocation** means the physical moving of PAPs from their pre-project place or residence, place for work or business premises, also called physical displacement under Worldbank OP 4.12.

**”Replacement cost”** means replacement of assets with same quality and quantity with an amount sufficient to cover full cost of lost assets and related transaction costs and taxes. The cost is to be based on Market rate (commercial rate) according to Kenyan law for sale of land or property. In terms of land, this may be categorized as follows; (a) “Replacement cost for agricultural land” means the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the costs of: (b) preparing the land to levels similar to those of the affected land; and (c) any registration and transfer taxes;

**“Replacement cost for houses and other structures”** means the prevailing cost of replacing affected structures, in an area and of the quality similar to or better than that of the affected structures. Such costs shall include: (a) transporting building materials to the construction site; (b) any labor and contractors’ fees; and (c) any registration costs.

**Resettlement and Compensation Plan”, also known as a “Resettlement Action Plan (RAP)” or “Resettlement Plan”** - is a resettlement instrument (document) to be prepared when program locations are identified. In such cases, land acquisition leads to physical displacement of persons, and/or loss of shelter, and /or loss of livelihoods and/or loss, denial or restriction of access to economic resources. RAPs are prepared by the party impacting on the people and their livelihoods. RAPs contain specific and legal binding requirements to resettle and compensate the affected party before implementation of the project activities.

**“Resettlement Assistance”** means the measures to ensure that Displaced Persons who may require to be physically relocated are provided with assistance during relocation, such as moving allowances, residential housing or rentals whichever is feasible and as required, for ease of resettlement.

**“The Resettlement Policy Framework (RPF)**-is a document prepared under the Kenya Municipal Programme as an instrument to be used when implementing the Water, Sanitation and Liquid Waste Disposal program by the Local Authorities. The RPF will be disclosed to set out the resettlement and compensation policy, organizational arrangements and design criteria to be applied to meet the needs of the people who may be affected by the program. The Resettlement Action Plans (“RAPs”) for the program will be prepared in conformity with the provisions of this RPF

**Resettlement Impacts** The direct physical and socio-economic impacts of resettlement activities in the project and host areas.

**Socio-economic survey** means the census of PAHs/ PAPs of potentially affected people, which is prepared through a detailed survey based on actual data collected.

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**A Squatter**-means an individual occupying land to which they have no claim under any tenure system.

“Trust Land” refers to that land that is still held under African customary tenure.

**Vulnerable** means any people who might suffer disproportionately or face the risk of being marginalized from the effects of resettlement i.e.; (i) female-headed households with dependents; (ii) disabled household heads; (iii) poor households; (iv) landless elderly households with no means of support; (v) households without security of tenure; and (vi) ethnic minorities.



## **1. Introduction**

### **1.1 Project Description**

The government proposes to develop a 132kv power transmission line from Eldoret to Kitale through the Energy Scale Up Program covering the period 2008 to 2017. The aim of the Government is to accelerate access to power supply by the rural population at a rate of 20% by 2010 and 40% by 2020 to enable meet the objective of the Vision 2030.

The proposed project shall necessitate acquisition of about 487.5 acres of private land thus the need of developing this RAP.

The RAP enables collection of socio-economic parameters that defines the characteristics of the PAPs which is used to guide in developing entitlement packages for the PAPs to atleast restore their lives to the pre-project status or improve them.

### **Scope of the RAP**

The aim of the RAP is to develop an action plan that ensures that the PAPs livelihoods are restored as much as possible and the project impacts on them are minimized to acceptable minimum during the RAP implementation phase. The scope of work undertaken during the RAP preparation phase in order to ensure that adequate data is collected for the development of a comprehensive action plan included:

- Project description;
- Analysing the objective of resettlement programmes;
- Analysis of potential project impacts through identification of the PAP, estimating their number and evaluating the impacts of the project on them;
- Conducting social-economic studies including census survey, land tenure and transfer systems, public infrastructure and social services which will be affected, social-cultural characteristics of community to be affected and patterns of social interactions in the affected communities, including social networks and social support systems;
- Analysis of the legal framework;
- Analysis of institutional framework covering the identification of agencies responsible for resettlement activities, an assessment of the institution capacity of such agencies and steps that are proposed to enhance the institutional capacity of the agencies responsible for resettlement implementation;
- Grievances address mechanisms-This involved evaluating availability of affordable and accessible procedures for third party settlement of disputes arising from resettlement. The study also analysed the availability of judicial resources and, community and traditional settlement mechanism;
- Organisational responsibilities-Organisational framework for implementing resettling including identification of agencies responsible for delivery of resettlement measure and provision of services, arrangements to ensure appropriate coordination between agencies and jurisdiction involved in implementation.

- RAP Implementation schedule- Development of an implementation schedule covering all resettlement activities from preparation through implementation including target dates for the achievement of expected benefits to resettles and hosts. The schedule indicates how the resettlement activities are linked to the implementation of the overall project;
- Cost and budget-The report shows itemized best cost for all activities, including allowances for inflation, population growth and other contingencies timetables for expenditure, sources of funds and arrangements for timely flow of funds and funding of resettlement, if any in areas outside the jurisdiction of the implementing agencies
- Monitoring and evaluation mechanisms-Arrangements for monitoring of resettlement activities by the implementing agency, supplemented by independent monitors as considered appropriate by World Bank to ensure complete and objective information performance monitoring indicators to measure inputs, outputs and outcome for resettlement activities

## **1.2 Project Background**

Kenya Power and Lighting Company Limited (KPLC), also referred to as the implementing agency, is a limited liability company responsible for the transmission, distribution and retail of electricity throughout Kenya. The Proponent owns and operates the national transmission and distribution grid, and as at June 2009 was retailing electricity to approximately 1,262,309 customers throughout the nation. The Proponent proposes to construct and operate approximately 65 Km of single circuit 132 kV transmission line between Eldoret and Kitale.

The registered office and contact addresses of the implementing agency are:

Kenya Power and Lighting Company  
Stima Plaza, Kolobot Road  
P. O. Box 30099  
00100 – NAIROBI.  
Tel. 254 20 3201000  
E-mail: jguda@kplc.co.ke

The Government of Kenya plans to increase access to electricity in Kenya tenfold from the current 4% in the rural areas to about 40% by 2020. To do this, the transmission lines network is being considered for construction and upgrading with the communication system required for line protection and management purposes.

The generating system in Kenya consists of hydropower as well as thermal power plants, in total 1,197 MW installed capacity. The largest power plant is Gitaru hydropower plant with an installed capacity at 225 MW (as at the end of FY 2007). The transmission system voltage as of June 2007 consisted of 1,323 km 220 kV and 2,122 km 132 kV. Almost all the 220 kV and 132 KV lines are single circuit lines with the conductor Goat at 220 kV and Wolf or Lynx for more than 50 % of the 132 kV lines. Kenya is today interconnected with Uganda through a 132 kV double circuit line. (Norconsult AS, August 2009).

The KPLC least cost power development plan identified various 132 KV developments for improving the performance of the national grid network to cater for the increasing load growth and meet the objectives of 2030. To meet this objective KPLC intends to construct a single circuit 132KV transmission line from Eldoret – Kitale. The proposed transmission line offers an opportunity to expand the dedicated telecommunications network so as to offer enhanced protection of the lines and upgrade the communication system. (Norconsult AS, August 2009)

### **1.3 Project Description**

The proposed project is part of the project proponent's energy access scale-up program, which has the following objectives:

- Extending the transmission of new 132 kV line from Eldoret – Kitale, as well as new and reinforced transmission lines with the aim of reducing technical losses and improving voltage conditions, thereby coping with additional demand.
- Increasing access to electricity to 20% by 2010 by accelerating connection rates;
- Voltage upgrading to increase supply capacity and reduce system losses;
- Provide alternative electricity supply paths to increase reliability and improve power quality in the regions.

Currently electricity is accessible to less than 20% of the total population and approximately 5% of rural population. The Government's goal is to accelerate access rate to 20% of rural population by 2010 and to at least 40% by 2020. To achieve this goal, Government has prepared the Energy Scale up Program covering the period 2008 to 2017. This would be approached not only from improvement and expansion of the network, but also on raising the generation to match the demand. A main criterion when concluding on the adopted conceptual design has been to ensure that the transmission line is designed in a safe, cost effective and reliable manner. This study provides the project proponent with considerations on social-economic impacts of the project as proposed.

The installation of the proposed line will require a way leave of about 65m throughout its stretch. The proposed way leave will be expropriated from the community members as no public land exists in the project area to meet the requirements of the proposed project. The area of land to be acquired from the community members' measures about 195 hectares (487.5 acres).

### **1.5 Project Location**

The proposed project involves construction of approximately sixty five kilometers (65 km) stretch of a high voltage transmission line from Eldoret to Kitale. The proposed transmission line traverses through six districts namely Wareng, Eldoret North, Uasin Gishu, Lugari, Trans Nzoia West and Trans Nzoia East as shown on the way leave [map under Annex 1](#). Table with details on the of the villages, sub-locations, location and divisions traversed by the project is provided under Annex 2.

### **1.6 The main objectives of this Resettlement Action Plan**

The main objective of the RAP is to develop a programme to enable restore the livelihoods of the PAPs to the pre-impacts levels. To achieve the objectives of the RAP a socio-economic survey was conducted in the project area to gather information on the project impacts on the PAP's. The

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information gathered enabled identify the nature and diversity of the potential impacts on the PAP's assets, livelihoods, public infrastructure and households.

The objective of the RAP has been achieved by undertaking the following;

- Enumerating the affected households;
- Identifying any vulnerable Project Affected Persons (PAPs);
- Conducting inventory of all assets to be affected or damaged;
- Valuating the affected assets at full replacement value and determine any supplementary payments e.g. unit price lists and itemized breakdowns of compensation offers and participation;
- Evaluating the available grievance procedures and mechanisms;
- Evaluating existing institutional arrangements within the Kenyan law;
- Developing Monitoring and Evaluation Parameters;
- Developing a timeline for the RAP; and
- Preparing a Budget for all activities.

### **1.7 Justification of the RAP**

Currently electricity is accessible to less than 20% of the total population and approximately 5% of rural population. The Government's goal is to accelerate electricity access rate to 20% by the rural population by 2010 and to at least 40% by 2020. To achieve this goal, Government has prepared the Energy Scale up Program covering the period 2008 to 2017. This would be approached not only from improvement and expansion of the network, but also on raising the generation to match the demand.

The KPLC customer base is expected to grow by 200,000 connections every year creating an annual demand growth of about 150 MW. The national economic growth has also been on the upward trend - rising from 1.8% in 2003 to 5.8% in 2005. Significant effects of this growth are notable in agriculture, tourism and construction among others with a corresponding increase in power generation that rose from 4,852GWh in 2003 (with sales of 3,801GWh) to 5,195GWh in 2004 (sales of 4,090GWh). Maximum energy demand was projected at 5,641GWh in 2006 and 24,957GWh by the year 2026 hence the proposed project.

To enable meet the objectives of the Energy Scale up Programmes, the KPLC needs to acquire land for the development of the proposed project. The project area earmarked for the development of the proposed Eldoret-Kitale line has no public land for its installations thus the need of expropriating land from private land owners. This need of private land expropriation triggers the WB OP 4.12 which aims to ensure that people affected with resettlement due to the development of a public project funded by the bank are adequately compensated for their loss. KPLC is aware of the need to implement the WB OP as it's requirements supplements the missing links in the Kenyan regulations. The OP 4.12 also aims to ensures that proposed projects are environmentally, economically and socially sustainable.

Despite the fact that the proposed project's objective is positive, it shall have several impacts on the PAPs including destruction of property, loss of income and, restriction to access to socio-economic resources and services among other impacts. The community members in the project area were consulted on the proposed project and majority of them indicated they have no

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objection to the proposed project as long as appropriate mitigation measures are implemented to reduce the negative impact likely to be transferred to them. Some of the proposed mitigation measures proposed include; adequate compensation for lost property, avoid routing the proposed transmission line in densely settled area especially in the trading centres and where possible the line should be installed underground in order to minimise resettlement and displacement of the PAPs among other measures.

The consulting team's observation is that the stated mitigation measures within the reach of the project and can be considered for implemented especially the mitigation measures on re-routing the line from densely populated areas to less dense areas. The project area has vast agricultural land which can be used for the installation of the proposed transmission line without adversely affecting the land owners.

## **1.8 Land Compensation and Wayleave Acquisition**

The KPLC has guidelines on wayleave acquisition and land compensation which are outlined in the wayleave acquisition procedures and the Resettlement Policy Framework (RPF) for similar project undertaken by the organisation.

Objective of Wayleave Acquisition procedure is to ensure that quality and binding wayleaves consents/approval are obtained/acquired effectively and correctly by following strict laid down rules to ensure that the construction of powerline is done to satisfactory levels and to the highest standard compliant to statutory ISO 9001:2000. The wayleaves acquisition is a compulsory procedure applied to all powerlines network throughout the organisations regions of operation. Acquiring wayleaves legalises the building of power lines and is undertaken using the following documented operating procedures listed below. Copies of the operating procedures under **annex 3 to this report** :

- Acquisition of maps and plans plan- The purpose of acquisition of maps and plans is to provide the right tools (data) and information for survey and quality design requirements in compliant to statutory.ISO 900:2000 requirements;
- Property Damage Assessment and Payments –The purpose of this operating procedure is to record all damaged properties, cost them using set and approved KPLC rates and organise payments for compensating affected people. The aim of this procedure is to provide satisfactory service and enhance a warm relationship with KPLC's direct and indirect customers in order to achieve quality service compliant to ISO 9001:2000;
- Sorting out wayleaves trace infringement-The purpose of this operating procedure is to clear the wayleaves of traces of infringements in order to ensure that risk to life is reduced in the event of high voltage lines collapsing on human habitation and at the same time avail smooth passage or access to power line maintenance teams for maintaintainance, disconnection of power incase of emergencies or in case of necessity to repair the line and to ensure the safety of the powerline. The wayleaves trace inspection is normally carried out for all powerline network within the country.

The process of wayleave acquisition according to KPLC operating procedures are;

- The Wayleaves Officer identifies if Public approvals are required or wayleave agreement forms are necessary for an identified wyaleave;

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- If Public approvals are required, application for public approval is made with colored drawings attached;
- If wayleave agreements are required they are prepared and a list of the plot numbers affected are also prepared to enable carry-out personal title searches and to determine the registered land owners and their contact.;
- The names are inserted to each wayleaves agreement form prepared;
- The wayleaves officer allocates the agreement form to wayleaves assistant to physically look for the landowners to sign the agreements forms;
- The wayleaves officer counter check signed agreement forms and they are recorded and filed. Where land owners dissents, Project/Design is notified and further negotiations are arranged or Project/Design Engineer explores alternative route if negotiation fails and the exercise is repeated;
- Once the public approval are obtained and wayleave consents granted, the Design Engineer/construction notified Construction works to proceed.

### **1.9 Guiding Principles of the RAP**

In order to ensure that the RAP complies with international best practice as regards resettlement, the principle implementing agent, KPLC shall bind itself to the following guiding principles:

#### **Principle 1: Resettlement must be avoided or minimized**

Action: To comply with the principle, MCM has demonstrated that the proposed resettlement is both necessary and viable, and that its scope and extent cannot be lessened. KPLC has shown that they aim to designed the proposed project so as to cause the least possible displacement and/or disruption.

#### **Principle 2: Genuine consultation must take place**

Action: Given its focus on resettlement, the primary concern is to take seriously the rights and interests of the PAPs. For this to take place, their voices need to be made clear, via the formation of local level consultative forum. These structures have been co-ordinated at the community level by the clients personnel and the consulting team.

#### **Principle 3: Establishment of a pre-resettlement baseline data**

Action: To support the successful reestablishment of affected property, the following activities will be undertaken prior to displacement.

- An inventory of landholdings and immovable/non-retrievable improvements (buildings and structures) to determine fair and reasonable levels of compensation or mitigation.
- A census detailing household composition and demography, and other relevant socio-economic characteristics.

The asset inventories will be used to determine and negotiate entitlements, while the census information is required to monitor homestead reestablishment. The information obtained from the inventories and census will be entered into a database to facilitate resettlement planning, implementation and monitoring.

#### **Principle 4: Assistance in relocation must be made available**

Action: KPLC will guarantee the provision of any necessary compensation for people whose property will be disturbed to make way for the water supply structures, or any other disturbances of livelihood associated with the project in proportion to their loss.

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**Principle 5: A fair and equitable set of compensation options must be negotiated**

Action: Compensation will be paid for structures, land and trees that are disturbed according to set rates derived from market value comparables.

**Principle 6: Resettlement must take place as a development that ensures that PAPs benefit**

Action: Where practical the employment and sub-contracting opportunities that arise from the project will be made available to the affected population.

**Principle 7: Vulnerable social groups must be specifically catered for**

Action: Members of vulnerable groups are often not able to make their voice heard effectively, and account will be taken of this in the consultation and planning processes, as well as in establishing grievance procedures. They are often physically weaker, and may need special help in the relocation/disturbance phase. In particular, female and child headed households may lose out to more powerful households when assets will be demolished to make way for the proposed project. This will entail KPLC ensuring that the pre-resettlement database specifically identifies vulnerable social groups and makes provision for them to be included in consultative forum. KPLC must further ensure that they are given the necessary protection to ensure that they receive equitable access to replacement resources. In addition, KPLC will make specific reference to vulnerable social groups being paid particular attention in the monitoring process. Vulnerable groups will include those with minimal assets, the illiterate, and the aged (those PAPs of more than 65 years).

**Principle 8: Resettlement must be seen as an upfront project cost**

Action: Experience across the world shows that unless resettlement is built in as an upfront project cost, it tends to be under budgeted, that money gets whittled away from the resettlement budget to ‘more pressing’ project needs, and that it tends to be seen as peripheral to the overall project. KPLC will ensure that compensation costs, as well as those resettlement costs that fall within their scope of commitment, are built into the overall project budget as up-front costs.

**Principle 9: An independent monitoring and grievance procedure must be in place**

Action: In addition to internal monitoring that will be provided by KPLC an independent Team comprising local administration and the locals will undertake monitoring of the resettlement aspect of the project. Grievance procedures will be organised in such a way that they are accessible to all affected parties, with particular concern for the situation of vulnerable groupings. Monitoring will specifically take place via measurement against the pre-resettlement database.

**Principle 10: World Bank’s operational procedure on forced resettlement**

Action: the World Bank’s operational policy 4.12 on involuntary resettlement will be adhered to. It requires that involuntary resettlement be avoided where feasible, or minimized, exploring all viable alternative project designs. Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs. They should also be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of the project implementation, whichever is higher.

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## **2. Policy, Institutional and Legal Framework**

### **2.1 Statutory mechanism for Land acquisition**

The Kenyan Law recognises three categories of land ownership in which basic or radical title vests namely: - (i) Government-owned land, (ii) Trust land and, (iii) Private land.

In Kenya, expropriation is provided for in the Constitution under section 75 for private land and sections 117 and 118 for unregistered Trust Land. Section 75(1) of the Constitution provides for the Government to take possession of private land if it is deemed necessary in the interest of town planning among other public interests. The constitution however only provides general guidelines but detailed procedures for acquisition are elaborated under the Land Acquisition Act in Chapter 295 for private land and Chapter 288 for unregistered Trust Lands.

In general, land use rights can be withdrawn by the state in the public interest. However, the state has the responsibility for paying fair compensation for any losses and improvements. There is no specific resettlement policy and regulatory framework in Kenya. The land law only specifies compensation payment for expropriated land, which is done in the public interest. It is silent on compensation issues such as the principles, forms, eligibility, valuation, adequacy, procedures, timing and responsibilities.

There is no legal mechanism for affected persons to appeal against compensation paid or other resettlement measures. The only legal recourse available to affected persons is the courts of the country. Fortunately, there are well-established local mechanisms for conflict resolution concerning land among local communities consisting of land issues resolution committee, area development committees or village elders.

In the absence of a comprehensive resettlement legal and policy mechanism in the country, the requirements of WB OP 4.12 becomes the operational policy framework on all sub-projects funded by the bank that leads to displacement.

According to the World Bank, affected people, refers to people who are directly affected socially and economically by the Bank-assisted investment projects. In the preparation of RAP for the bank funded project, the donor requires that the affected people should:

- be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs
- be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or levels prevailing prior to the beginning of project implementation, whichever is higher.

#### **The main objectives of the World Bank Policy 4.12 include:-**

- Avoiding or minimizing involuntary resettlement where feasible, exploring all viable alternative project design; where it is not feasible to avoid resettlement, resettlement

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- activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to give the persons displaced by the project the opportunity to share in project benefits.
- Displaced persons should be meaningfully consulted and have opportunities to participate in planning and implementing resettlement programs.
  - That displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to beginning of project implementation, whichever is higher.
  - The production systems of a community are safeguarded to the extent that guarantees their livelihoods and that their skills base remain relevant regardless of the resettlement site. The policy objectives are also designed to minimize kinship group dislocation that might subject the affected persons to unfair competition when mutual help is diminished or lost.

The project consultant's met the objective of the WB by conducting public participation in the project area; evaluating project alternatives to enable minimise involuntary resettlement and developed an entitlement matrix to guide in calculation of resettlement costs.

### **2.1.1 Land Acquisition Act Chapter 295**

This Act provides for the compulsory or otherwise acquisition of land from private ownership for the benefit of the general public. The expropriation process provided by this Act is as described in the steps below.

**Step 1:** Formal request by the benefiting authority e.g. a municipal council will be made to the Commissioner of Lands. Any other public body or Government may request for acquisition this way.

**Step 2:** The Commissioner will then forward the application to the Minister in charge of lands. If the minister is convinced that the land is required for public purpose, the Minister will write to the Commissioner to that effect, and directs the Commissioner to acquire the land (Section 6(1)).

**Step 3:** The Commissioner will then give "Notice of Intention" to acquire the land (section 6(2) in the "Kenya Gazette" side by side with the "Notice of Inquiry". The public announcements will be made announced widely in standard mass communication avenues such as newspapers and on the radio.

The "Notice of Intention" must mention the public body or the public purpose for which the land is to be acquired. The "Notice of Inquiry" must mention places and fixed dates when persons interested in the subject land are to submit their claims to the Commissioner of Lands or his appointee.

**Step 4:** "Valuation Officer" also known as "Collector of compensation" according to Section 9 of the Act inspects the said land and value it for compensation. After the inquiry the Collector will issue an award depending on his own assessment and the representations of interested parties as submitted at the inquiry (Section 10 and 11).

**Step 5:** The award is issued in the prescribed form indicating the amount of compensation awarded while the statement form gives the landowners option of acceptance or rejection of the award. If the landowner accepts the award, the collector will issue a cheque in settlement together with a formal.

**Step 6:** “Notice of Taking Possession and Vesting” (section 19). The notice instructs the landowner to take his/her title for amendment or cancellation. It is copied to the Government Surveyor and the Land Registrar to make necessary changes to the affected deed. On the other hand, if the owner rejects the award, the collector deposits the money in court pending the former’s appeal. Compensation is based on open market value.

Section 12 of Cap 295 allows for in-kind compensation as follows:- Notwithstanding anything contained in the Government Lands Act, where the land is acquired for the Government, the Commissioner may agree with the person whom he has determined to be the proprietor of the land that person, instead of receiving an award, shall receive a grant of land, not exceeding in value the amount of compensation which the Commissioner considers would have been awarded, and upon the conclusion of the agreement that person shall, subject to section 18, be deemed conclusively to have been awarded and to have received all the compensation to which he is entitled in respect of his interest. An agreement under subsection (1) shall be recorded in the award.

*The study findings indicated that the Act is triggered as majority of the PAPS at household and commercial level own the land they inhabit and conduct business on respectively which they stated they acquired through inheritance and/or purchase and majority of them posses legal documents indicating land ownership. Land occupied by some institutions and businesses are leased or rented from the owners. The Proponent The Proponent shall adhere to the requirements of the Act in the implementation of land acquisition by implementing the requirement of this RAP.*

### **2.1.2 Trustland Acquisition Act Chapter 288**

This Act guides the acquisition of land under the custodian of the councils and allows for the expropriation of Trust Land on condition that:-

- The development and utilization of the Property will promote public benefit among other things.
- The necessity for expropriation is great enough to justify any hardship caused to any persons
- Law prompts for payment of full compensation

The procedures of land acquisition under this Act is as described in the steps below;

**Step 1:** The process starts with a proposal at a Full Council Meeting where proposed acquisition is deliberated and consent given vide a Council Minute.

**Step 2:** The “District Commissioner” in charge of the affected area will then proceed to ascertain interests, determine areas and assess compensation for the land after which he is to issue an award.

**Step 3:** Provision for compensation; section 8.(1) of Cap 288 allows for compensation as follows:- Where land is set apart under section 7 of this Act, full compensation shall be promptly paid by the Government to any resident of the area of land set apart who:-

- under African customary law for the time being in force and applicable to the land has any right to occupy any part thereof; or
- Is otherwise than in common with all other residents of the land, in some other way prejudicially affected by the setting apart.
- A notice of setting apart published under section 7 of this Act shall also be published by displaying a copy at the District Commissioner's office and at some other public or conspicuous place in the area concerned.

Under section 9(1), a person who claims to be entitled to compensation under section 8 of Cap 288 shall apply therefore to the District Commissioner once satisfied after consultation shall award the applicant a sum of compensation in accordance with subsection (3) of this section; and if he is not so satisfied the District Commissioner shall reject the application. The compensation to be awarded shall be assessed by the District Commissioner after consultation with the Divisional Board, and shall be assessed in respect of the loss of the right of occupation referred to in paragraph (a), or in respect of the applicant having been otherwise prejudicially affected as referred to in paragraph (b), of section 8 (1) of the Act. The District Commissioner shall give notice in writing to the applicant of the award or of the rejection of the application as the case may be.

*This regulation is triggered as the line has been designed to pass through land owned by the Municipal Council of Eldoret at Mountain View Farmers in Kipkaren village, Pioneer location, Kapsareet Division and section of Kimila Scheme in Kibomet.*

### **2.1.3 Way leaves act (Cap. 292)**

The Act provides for certain undertakings to be constructed e.g. transmission lines, pipelines, canals, pathways etc., through, over or under any lands. This project is under the provision of the Act. Section 3 of the Act states that the Government may carry any works through, over or under any land whatsoever provided it shall not interfere with any existing building or structures of an ongoing activity.

*In accordance with the Act (section 4), notice will be given before carrying out works with full description of the intended works and targeted place for inspection. Any damages caused by the works would then be compensated to the owner as per section.*

### **2.1.4 The Land Adjudication Act Chapter 95 Laws of Kenya**

This Act provides for ascertainment of interests prior to land registrations under the Registered Land Act.

*The Proponent has undertaken a survey and commissioned this Resettlement Action Plan (RAP) study which complies with the provisions of the Act. Public consultations have also been undertaken extensively in the affected project area*

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### **2.1.5 Registration of Titles Act Chapter 281**

The Registration of Titles Act is an act of Parliament that provides for the transfer of land by registration of titles. When the Commissioner of land issues a letter of allotment to any person in respect of any land, one of the laws under which the title to that land is issued is the Registration of Titles Act. A freehold title issued under this act confers absolute control upon individuals or other legal entities upon a given parcel of land. It also confers upon them power to determine the use to which such land can be put. A leasehold title contains conditions such as the term of the lease, commencement date thereof, the user of the land etc. Private ownership of land is embodied in this Act.

*This Act is triggered as after acquisition and compensation of the land by the proponent, the PAPs with title deeds will have to amend them or surrender them if the entire land is acquired to enable change type of land use and ownership.*

### **2.1.6 Valuation and Related Legal Issues**

The valuation practice in Kenya is governed by the Valuers Act Cap 532, which provides for a Valuers Registration Board that regulates the activities and conduct of registered valuers. Valuers in Kenya are registered upon application to the Board and are required to be full members of the Institution of Surveyors of Kenya (ISK). The Act governs the formation and composition of valuation practices including the qualification of partners and directors in charge of valuation. The Board also deals with discipline and complaints in respect to valuation practice. Other statutes that govern valuation are the Government Lands Act Cap 280 that regulates the valuation for land rent while valuation for rating is governed by the Rating Act Cap 267. Land Acquisition Act Cap 295 governs valuations for compulsory acquisition purposes.

*This Act is triggered as the valuer and financial analyst of the consulting team have applied the requirements of this laws and other market indicators to come up with the RAP budget and the market rate or replacement cost of compensating the PAP.*

### **2.1.7 Physical Planning Act**

The Act provides for the preparation and implementation of physical development plans and for related purposes. It gives provisions for the development of local physical development plan for guiding and coordinating development of infrastructure facilities and services within the area of authority of County, municipal and town council and for specific control of the use and development of land.

*The site layout plan appended to this report shows the proposed route for the transmission line. The Proponent shall secure all mandatory approvals and permits as required by the law.*

### **2.1.8 Occupiers Liability Act (Cap. 34)**

Rules of Common Law regulates the duty which an occupier of premises owes to his visitors in respect of danger and risk due to the state of the premises or to things omitted or attributes an affliction on his/her health to a toxic materials in the premises.

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*The Proponent shall acquire Way leave along the transmission line corridor. The Proponent shall endeavor to ensure that the management of health and safety issues is of high priority during the operational phase of the project.*

### **2.1.9 Dispute Resolution and Arbitration of Disputes**

The practice of domestic and international arbitration in Kenya is conducted within the framework of the 1995 Arbitration Act and is interpreted as: “any arbitration whether or not administered by a permanent arbitral institution”. The Act follows the UNCITRAL model almost word for word but with a number of glaring omissions: notably no provision for costs and interest, nor any provision for appeal in international arbitrations. These omissions are dealt with by the Rules of an active local branch of the London-based Chartered Institute of Arbitrators, being an amalgam of Rules established by leading international arbitral institutions and providers such as the London Court of Arbitration, the ICCA and Chartered Institute of Arbitrators or NEMA, Department of Arbitration.

In addition to ratifying the UNCITRAL Model Law, Kenya has also ratified the New York Convention, the WTO and WIPO Treaties relating to arbitration. The Kenyan branch of the Chartered Institute of Arbitrators, founded in 1984, is recognized as the professional body for the annual training and examination of those seeking to qualify as arbitrators; it also acts as the appointing body where stipulated in contract.

Kenya's Dispute Resolution Centre (DRC) is an independent, not-for-profit organization that promotes the prompt, effective and economic resolution of disputes through arbitration, predominantly mediation, expert determination and early neutral evaluation. This is a resource that could be called upon by the stakeholders to arbitrate. They would be of particular use should disputes around the compensation and resettlement process arise.

In addition, there are a series of customary avenues that have been set up to deal with dispute resolution and they will be employed as the “court of first appeal”, where relevant.

### **2.2 World Bank Involuntary Resettlement OP 4.12**

It is a requirement of the World Bank that any bank assisted project/program must comply with the provisions of OP 4.12 on involuntary resettlement for impacts associated with land acquisition and displacement. As a pre-requisite, either a Resettlement Action Plan (RAP) where impacts are known or a Resettlement Policy Framework (RPF) where multiple sub-projects are involved is needed in advance of the project implementation.

The RAP document is based on the Best Practices and criteria of involuntary resettlement provided in the OP 4.12. It is apparent that the proposed project will lead to loss of crops, displacement of people, interference with businesses and institutions thus the need of developing a RAP for project implementation. The main objective of this RAP is to provide guidelines for compensating the PAP so as to ensure that their livelihoods are improved or are restored as much as possible to the pre-impact level.

Despite the Kenyan Law recognizes legal land owners only, the WB OP 4.12 guides in compensating those who are not legal land owners but their livelihoods is affected in one or another by the project

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## 2.2.1 Gaps between GoK Laws and World Bank Policies on Land acquisition and Resettlement

There are similarities between key precepts of the World Bank Policy 4.12 and Kenyan legislation. The legislation recognizes the imperative need to offer compensation to those whose land is affected by government activities, such as compulsory acquisition where such land is envisaged to be used for the public good. Despite that, the current Kenyan legislation is silent on resettlement. The scope of coverage of Kenyan legislation and the World Bank Policy 4.12 differs as well. The World Bank Safeguards favour a policy of avoidance or minimization of involuntary resettlement and recommends the design of appropriate mitigation provision in case avoidance or minimisation is not possible.

Whereas both recognize customary tenure as equivalent to legal title, the World Bank Policy 4.12 extends beyond this principle and recognizes informal occupancy as a form of customary tenure so long as such informal occupancy can be established prior to the project cut-off date. Therefore, in accordance with the legal agreement of the credit for the development of the project, the preparation of this RAP has been executed in line with the policies and guidelines as set out in the World Bank Policy 4.12 which emphasises that affected people be provided with compensation at replacement cost and supported during the transitional period to improve or at least restore their living standards to pre-displacement levels. The Kenya system recognises only title holders as bonafide property owners while under OP 4.12, lack of legal title is no bar in extending assistance and support to those affected by the investments.

To abide by the requirements of the OP 4.12 the proponent (KPLC) should take the following into consideration during resettlement and compensation of the PAPs.

- Depending on tenure category, PAPs should be provided transition assistance (such as moving allowances) during relocation; and should be offered support after displacement, for a transition period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living;
- PAPs should be provided with development assistance in addition to compensation measures such as land preparation, credit facilities, training, or job opportunities; and
- In cases where in-kind replacement is not the preferred option of the PAPs, then the cash compensation should be based on the replacement cost.

The PAP without legal land documents should also be given considerations which should include the following:

- Notice to vacate land prior to development;
- Right to harvest seasonal crops incase the affected land is agricultural;
- Tenants are provided with cash compensation *in leu* of unexpired lease if agricultural land is acquired and incase of loss of structures on residential/commercial or industrial land, the cash compensation should be provided for a given time say a period of 12 months
- Squatters who looses residential/commercial or industrial land should be provided a transitional allowance equivalent to three (3) months income
- Incase of partial loss of structure the PAPs should be given cash compensation at replacement cost for affected portion based on Ministry of Works (MOW) depreciation rate; repair cost for unaffected structure and right to salvage materials;
- Incase the structure is completely affected or the remaining part is non-viable tenants should be given subsistence allowance for three month Lease equivalent rental value, a onetime shifting allowance of Ksh. 5,000 and right to salvage materials;

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- For squatters in case the structure is completely affected or the remaining part is non-viable they should be compensated at replacement cost based on the MOW without depreciation plus a house building allowance and compensation subsistence allowance for three months or minimum wage for unskilled labour; a one-time shifting allowance of Ksh. 5,000 and right to salvage materials;
- In case of loss of income in form of employment or rental income PAPs should be provided a subsistence allowance equivalent to 3 months minimum wages for unskilled agriculture workers; a lump sum payment of Ksh 100,000 to help recreate a viable livelihood and opportunity for skills development ;
- In case of loss of income the business owners should be compensated with cash grant equivalent to one year from business minimum wages based on local labour laws or for audited business, cash grant equivalent to one year income as an average of the previous three years; employees will be compensated with lump sum maintenance allowance equivalent to 3 months of minimum wages as per local guidelines while hawkers will be compensated with subsistence allowance for 3 months at the equivalent of minimum wage guideline and a one-off shifting allowance of Ksh .5000;
- In case of loss of standing crops all cultivators should be compensated with cash compensation based on the annual market value of target crops for the previous 3 years.;
- In case of loss of community propriety resources the resource should be provided afresh or relocate to new site; and
- For unidentified impact, mitigation measures will be proposed based on the Best Practices or Guiding Principle of involuntary resettlement and other regulating laws.

### **2.2.2 Mechanism for resolution of gaps between the GOK and OP 4.12 on Resettlement.**

The resettlement process of PAPs should recognise both provisions of the GoK on land acquisition as stated in the constitution and its legal provisions and the policy provisions of the World Bank (as provided in OP 4.12). Where there are gaps between the Bank and GoK requirements, Bank policies shall be applied. With the aim of harmonising the GoK legal requirements and the WB requirements the following should be taken into consideration:

- Each proposed investment should be screened at feasibility study stage to determine the impacts associated with the land acquisition and resettlement impacts and accordingly determine the level of RAP that need to be prepared in line with the provisions OP 4.12.
- All sub-projects impacting on the community resulting to loss of livelihoods or displacement should undergo a full Rap study.

### **2.2.3 Minimization of Displacement**

In line with the OP 4.12, displacement arising from development should be minimised as much possible by redesigning the project (facility relocation, rerouting) so as to avoid any impacts on dwellings resultant displacement/relocation.

The same applies to structures used for commercial activities and other businesses. Wherever the impact on the land holding of one particular household is such that this household may not be sustainable in the long term, even if there is no need to physically displace this

household, the sub-project shall be redesigned (facility relocation, rerouting) to avoid any such impact.

The proposed project will have physical impact on agricultural land, dwellings, commercial structures and institutions. The impacts on some structures can be minimized by re-routing the line to agricultural areas especially in the peri-urban areas in Kamgut, Longisan and Mois Bridge.

#### **2.2.4 Livelihood Restoration**

The main objectives of the RAP is to develop programmes that aims to improve the livelihoods of PAPs or restored to pre-displacement levels. Where impact on land use is such that sustainability of livelihoods may be affected, preference should be given to land-for-land compensation rather than cash payouts. This applies to people who are not necessarily physically displaced but who are affected by a land loss that affects their sustainability.

The following principles should be followed for payment of compensation for lost assets -

- Compensation shall be paid prior to land acquisition or displacement;
- Compensation will be at replacement cost;
- Compensation for structures shall include: the full cost of materials and labour required for reconstructing a building of similar surface and standing. In other words, the affected person must be able to have their structure rebuilt in a different location using the compensation paid for the old building. Depreciation should not be taken into account while calculating the cost of affected structures; and
- The Compensation package should also include cost of moving, such as transport costs as well as any associated land titling or transfer fees.

#### **2.2.5 Assistance to Vulnerable Groups**

There is need for providing additional support to the vulnerable groups to facilitate faster adjustment in the new environment and impacts associated with the project. Vulnerable households may have different land needs from most households, or needs unrelated to the amount of land available to them. Vulnerable PAPs in the project area included women headed households and the elderly people.

### **2.3 Institution Framework**

Land acquisition, resettlement implementation and management is usually a major issue in the project implementation process and this call for the need of appropriate institutional framework for all concerned parties including the client. It is always important to ensure timely establishment and effective functioning of appropriate organizations mandated and is capable to plan and implement land acquisition, compensation, relocation, income & livelihood restoration programs. The organizational structure or the institutional capability should be elaborates on the role of various stakeholders in the implementation and administration of the RAP. It further clarifies the role of PAPs and their responsibility in the entire process.



The implementing agency (KPLC) should develop institutional arrangement within the implementing agency, provide adequate resources to the agency and inter-agency involved in undertaking the RAP.

The National Environmental Management Authority through the EMCA institutes the RAP by requiring developers to conduct public participation and ensure that the PAPs opinion is recognised and considered during project planning. This principle of the EMCA ensures that the interests of the PAPs are safeguarded since the Authority requires that all issues likely to affect the PAPs are clearly brought out and mitigation measures sought for. NEMA then requires the project proponent to present the project proposal in form of an Environmental Impact and Social Assessment Report giving details on the project's identified impacts and their mitigation measures before it approves the project. As part of impact mitigation for project leading to displacement, NEMA also reviews RAP documents for adequacy.

### **2.3.1 Institutions responsible for the resettlement Activities**

When implementing RAP for a proposed project, it is recommended that an institutional framework be developed by the KPLC which takes into consideration the involvement of other key agencies. Key stakeholders and institutions to be involved in the process of land acquisition, award of compensation and resettlement for the project should include:

- Ministry of Environment and Mineral Resources
- The Ministry of land
- Ministry of Agriculture
- Ministry of Education
- Ministry of Housing and Settlement
- Resettlement Steering Committee/Unit (RSC)
- National Environmental Management Authority (NEMA) Officer
- Local Councils
- Respective village committees
- Provincial administration
- NGOs with legitimate interests

Each of the institution will have a collective role to play in the implementation of Resettlement Action Plan for it to be successful.

Resources for implementing the RAP has been included in the RAP budget and the capacity and commitment of the institution to implement the RAP has also been assessed. Strengthening of the institutions should also be considered if necessary and the steps that will be taken together with a timetable and budget for implementating the RAP should be described in. Involvement of the local people and NGOs in planning, implementation and monitoring resettlement has been incorporated in the project plan.

### **2.3.2 Resettlement Steering Committee Unit (RSC)**

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A RSC chaired by the Local District Commissioner (DC) should be formed and it should draw membership from the proponent (KPLC), Social Welfare Department, Enforcement Department, the Ministry of Lands and Settlement., Survey Department, Chair of the Finance Committee, Chair of the Welfare Committee, Representative of PAPs, Local Chief and Opinion Leaders including Religious Leaders, Women and Youth leaders.

Each RSC will establish a secretariat and should establish an office within the district headquarters. For effective implementation of the project, the KPLC should establish a Project Implementing Unit (PIU) with core staff that includes the Managing Director, Treasurer, Engineers, Planners, Internal Auditor, Procurement Officer, Environment Officer, Social Development Officer (Community Liaison Officer), Surveyor, ICT officer (Database Officer), Human Resources Officer, Legal Advisor, Way-Leave Officer, Land Valuer and a Monitoring and Evaluation officer.

The RSC and PIU will be responsible for the following:

- Oversee the implementation of the RAP;
- Oversee the formation of PAP Committee (PC);
- Ensure maximum participation of the affected people in the planning of their own resettlement and post resettlement circumstances;
- Accept financial responsibility for payment or compensation and other designated resettlement related costs;
- Ensure detailed valuation of the structures in order to determine the case to case value of each component of the project and agree upon a value for compensation;
- Pay the affected people compensation to the amounts agreed;
- Ensure monitoring and evaluation of the PAPs and the undertaking of appropriate remedial action to deal with grievances and to ensure that income restoration are satisfactorily implemented; and
- Ensure initial baseline data is collected for the purposes of monitoring and evaluation report as per the indicators provided by the RAP.

The RSC and PIU will also be responsible for identification of alternative sites, selection of resettlement site(s), site preparation and relocation with following core functions:

- Development of institutional and technical arrangements for identifying and preparing relocation sites for which a combination of productive potential, location advantages and other factors, should be at least comparable to ancillary resources;
- Development of procedures for physical relocation including timetable for site preparation and land title transfer and description of resettlements sites;
- Development of measures to prevent the influx of ineligible person (encroachers and squatters) into the selected sites such as the identification and recording of affected people at the project identification stages;
- Establishment of legal arrangements for regularizing tenure and transferring titles to resettled persons; and
- Conduction of environmental and social impact assessment on resettlement site to evaluate the possible environmental impacts on the proposed resettlement and develop mitigation measures to enable reduce the impacts. Reference should be made to the EMCA and Environmental Impact and Audit Guidelines of NEMA if site is found not to be suitable alternative site should be look for.

### 2.3.3 PAP Committee (PC)

Under the guidance and coordination of RSC and PIU, the PC will be formed two to three weeks after the formation of the RSC which will act as a voice PAPs. The committee shall comprise of the following:

- National Environmental Management Authority (NEMA) officer
- Lawyer/Legal Advisor MCM
- Valuer MCM
- Two Project affected people Representatives – to be appointed by PAPs.
- Local council representative.
- District Valuer or any Independent Valuer
- Surveyor
- The local area chiefs
- District Land Adjudication and Settlement Officer
- District Social Development Officer
- Provincial State Counsel

The PC shall have a Chairperson and a Secretary appointed or elected by PAPs. The chairperson ought to be from the local area.

The PC will be concerned with the following:

- **Public Awareness:** Includes extensive consultation with the affected people so that they can air out their concerns, interests and grievances. This consultation will ensure that they own up the whole process of resettlement so that they do not oppose the implementation of the overall project.
- **Compensation:** Involves ratifying compensation rates and also serves as dispute resolution body to negotiate and solve any problem that may arise relating to resettlement process. If it is unable to resolve any such problems, will channel them through the appropriate grievance procedures laid out in this RAP.
- **Monitoring and Evaluation (M&E):** Involves developing the monitoring and evaluation protocol for the whole process.
- **Logistics:** Involves exploring all mechanisms by which RAP can be implemented
- **Employment, Training and Counseling:** Involves employment protocol in the project (if any) for those who cannot find alternative employment. The committee will also counsel the PAPs both socially and economically.

### **3. SOURCES OF DATA**

#### **3.1 Introduction**

Several data collection tools were used to document available the status of the project area during RAP development phase these included use of checklists, photography, geographical positioning systems (GPS), questionnaires, public interviews and computers among others. All data collected were analyzed for production of the RAP. Samples of the questionnaires used during the study are provided under **Annex 4** of this report.

The proposed project was screened for impacts likely to lead to resettlement and this involved conducting discussions with the proponent on the project issues and, collection of primary and secondary data. The primary data was collected through the qualitative and quantitative methods of data collection. Qualitative data was collected through filed visits/site walks, public and stakeholders consultation while quantitative data was collected through the use of sampled questionnaires. The secondary data was collected through literature review which included study of the following documents:

- Policies, Acts and Regulations;
- District Development Plans;
- Project area topographical and cadastral maps;
- Previous project study documents; and
- Literature materials on project including those on IBA, Plant Species, Culture, Power Project Installation and Management among other project parameters.

#### **3.1.2 Desk study**

Desktop studies were conducted through review of the secondary materials to establish the following:

- Legal Policies, Legislative and Institutional Framework governing resettlement ;
- Project area socio-economic baseline information;
- Resettlement procedures; and
- Potential positive and negative impacts of resettlement.

The secondary data was obtained by reviewing several literature materials including:

- Policies, Acts and Regulations
- District Development Plans for Uasin Gishu District
- District Development Plan for Trans Nzoia District

- District Development Plans for Lugari District
- State of Environment for Uasin Gishu District
- State of Environment for Trans Nzoia District
- State of Environment for Lugari District
- The Feasibility Study of the proposed project under energy scale up report
- Environmental Impact Assessment Scoping Report for the Proposed Eldoret-Kitale 132kV Transmission line
- The Sectoral Environmental Impact Assessment Study, August 2009
- Project area cadastral and topographical maps
- World Bank Safeguard Policy on Resettlement

### **3.1.2 Field Assessment and baseline survey**

Detailed field surveys for this study were undertaken within the proposed project area and its surrounding from the 24<sup>th</sup> September to 7<sup>th</sup> October 2009. This involved conducting systematic field traversing to quantify perceived impacts on land ownership and usage.

The socio-economist, environmentalist and land valuer experts traversed the whole project area and identified the status of the bio-physical environment and socio-economic indicators which such as economic activities, available infrastructure, available institutions, types of households affected among other parameters. The site walks also evaluate alternative existence of alternative project sites.

### **3.1.3 Public Consultations**

Detailed stakeholders consultations was undertaken from the 24<sup>th</sup> September to 7<sup>th</sup> October 2009 in the entire project area. These consultations were conducted in the form of:

- Focus group discussions (FGDs):- FGD were conducted with men, women and the youth. The composition of the groups were determined after consultation with the Chiefs and Assistant Chiefs of the areas;
- Key Informant Interviews and Semi-Structured Interviews:- These interviews were conducted with the District Officers (DOs), Chiefs, Assistant Chiefs, Councilors and Village Elders;
- Open-ended and Pre-coded questionnaires: -These questionnaires were administered to target groups in order to obtain their views on the proposed project and its perceived impacts.

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The main target groups were the PAPs along the proposed transmission line way leave and to some extent the households surrounding the proposed project area. The PAPs were picked systematically for interviews with the aim of reaching up to 100% of those within a radius of 100m of the proposed line. The general public was also interviewed and this involved reaching communities members with property outside the way leave area through random sampling. For those households which were on the proposed transmission line and were not reachable during the interviews, the Chiefs and Assistant Chiefs gave the team an estimated number of households, names and the villages. The names of all those interviewed during the consultation are annexed to this report.

Public Barazas which were organized by the D.Os and Chiefs; and transect walks were also done to confirm the information from the discussions and observations were made on physical and environmental conditions.

### 3.1.4 Socio-Economic Survey and Findings

Census surveys were conducted at household levels to gather baseline socio-economic information on the PAPS in the project areas. The table below below gives the dates and the different proposed project areas which surveyed during the study findings

Table 3.1.4 Socio-Economic Survey Study Area and dates of Study

Date	Area
26/09/2009	Farms Pioneer Location, Kipkaren, Kaptinga
27/9/2009	Pioneer and Kipkenyo
28/09/2009	Soy and Kamagut,
29/09/2009	Chemical, Msalaba Yellow, Nangili to Mukunga A-B
30/09/2009	Naisambu, Kibomet, Bikeke, Machungwa, Wekhoya Toro, Mois bridge, Toro, Maili Mbili, Matunda Police towards Moi's Bridge
1/10/2009	Kitongoria, Kapkoi, Matunda, Maua, Lamayuet, Sheiwe

### 3.2 Socio-Economic Characteristic of the PAPs

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The census survey conducted collected several baseline indicators of the PAPs and the findings are summarized in table 3.2 below.

**Table 3.2 Summary of the socio-economic survey findings depicting the characteristics of the respondents and project area**

<b>Variable</b>	<b>Characteristics</b>	<b>Percentage</b>
<b>Gender</b>	Male	62.3
	Female	37.7
<b>Marital Status</b>	Married	90.4
	Single	4
	Divorced	0.6
	Widowed	5
<b>Age of household head</b>	20 and below	1.7
	21-30 years	20
	31-40 years	25.1
	41-50 years	19.4
	51-60 years	19.4
	61-70 years	11.4
	Over 70 years	2.9
<b>Total number of dependants</b>	3 and below	8
	4 to 7	47
	8 to 11	29
	12 to 15	15
	Over 15	1
<b>Occupation/ Employment of the household head</b>	Farmer	39
	Government/public sector	19
	Private sector	15
	Casual labour	16
	Self-Employed	11
<b>Family Structure</b>	Nuclear family	75
	Extended family	14
	Polygamous family	11
<b>Income of the household head</b>	5,000 and below	17
	Kshs 5,001-10,000	22
	Kshs 10,001-15,000	13
	Kshs 15,001-20,000	17
	Kshs 20,001-25,000	5
	Kshs 25,001-30,000	6
	Over Kshs 30,000	22
<b>Education level for head</b>	Secondary	45
	Primary but cannot read	11

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Variable	Characteristics	Percentage
	Primary and able to read	33
	No education	11
<b>Religion</b>	Christian	99
	Islam	1
<b>Number of Houses Per Homestead</b>	One	60
	two	15
	three	9
	Four	6
	>Four	10
<b>Socio-Economic Activities</b>	Crop Farming	94
	Livestock Keeping	3
	Poultry	2
	Business	1
<b>Sources of Income</b>	Farming	89
	Employed	6
	Unemployed	4
	Pensioners and Retirees	1
<b>Types of Farming</b>	Subsistence	22
	Commercial	6
	Both Subsistence and Commercial	86
<b>Response on measures needed to improve locals living standards</b>	Improve on farming	42
	Start a business	29
	Need either loan or grant	26
	Government to Create Employment	3
<b>Relation to property</b>	Own residential property	98
	Rented	2
<b>Number of years have resided in the area</b>	0 to 10	25
	11 to 20	19
	21 to 30	18
	31 to 40	15
	41 to 50	23
<b>Property Characteristic</b>	Blocks, iron sheets and wood wall	73.3
	Iron sheets roof	6.7
	Wooden walls and iron roofs	20
<b>Land Ownership</b>	Freehold	83

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Variable	Characteristics	Percentage
	Not specified	7
	Traditional	6
	Leased	4
<b>Water Sources</b>	Borehole	68
	Piped Water	26
	Rivers	6
<b>Sources of Energy</b>	Wood	61
	Electricity	20
	Paraffin	17
	Gas	1
	Solar	0
<b>Estimated number of people to be resettled from household</b>		
	1-3	21
	4-7	34
	8-11	30
	12 and above	15
<b>Resettlement Preference</b>	Resettling with community members	81.3
	Resettling without community members	18.6
<b>Preliminary Resettlement</b>	No Response	62
	In the same district	21
	People to be resettled near their present homes	7
	Not considered yet	5
	Identify rich Agricultural land first	5
<b>anticipated project impacts on household</b>	Electricity use	56
	Loss of agricultural land	21
	Loss of culture	16
	Indifferent	7
<b>anticipated project impacts on socio-economic activities</b>		
	Relocation	33.3
	Noise	16.7
	Loss of job	8.3
	Boost business	16.7
	Reduce income	25
<b>Potential adverse impacts on vulnerable groups.</b>	Malnutrition from low farm output in a family	24
	Schooling of children affected	27
	Loss of employment	13

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Variable	Characteristics	Percentage
	Health hazards from material used in project construction	4
	Loose their ancestral land which has sentimental values for old people	25
	Loose their ancestral land which has sentimental values for old people	6
<b>Anticipated impacts of resettlement on commercial entities</b>		
	Loss of customers	66.7
	Compensation will boost income	16.7
	Loss of business	8.3
	Loss of income	8.3
<b>Anticipated impacts of resettlement on households</b>		
	Compensation for property destroyed	
	Give money to start business	
	Youths to be given casual jobs	
	Relocate the aged a few meters from area	
	Resettlement to be in areas with adequate facilities	
	Project to be environmentally friendly	
<b>Alternative consideration to proposed project and resettlement</b>		
	No resettlement, only compensate	44
	Use idle land and road reserves	19
	Underground cables to be used	11
	Pass the line on cultivation land and not homesteads	10
	Power line to bypass another location	8
	Use other sources of energy e.g solar energy	3
	Not considered yet	3
	Relocate on the same piece of land	2
<b>Issues Likely to hinder</b>	Social dynamism	33.3

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Variable	Characteristics	Percentage
<b>resettlement of PAP</b>		
	Means of Transport	22.2
	Nature of Business	11.1
	Tribalism	33.3
<b>How collective decision is made in the area</b>	Through Chief Baraza	33.3
	Through Women Group	8.3
	Informal groups	25
	Land lords and tenants	8.3
	Welfare groups	25

## **4. POTENTIAL PROJECT IMPACTS AND MITIGATION**

The nature of the proposed project will lead to several positive and negative impacts in the project area. Despite the fact that the overall objective of the proposed project is positive as it will lead to economic development; it shall have an impact on the community residing in the area earmarked for the development as it shall acquire a thirty (30m) wayleave for the 65km stretch between Eldoret and Kitale thus lead to acquisition of agricultural land and structures

The socio-economic survey conducted in the project area enabled identify the several social impacts arising from the development of the proposed line. The impacts mentioned included the acquisition of sections or whole parcels of land from about 340 households in settlement and farming blocks, transfer of stress to vulnerable groups who include the elderly (55-77years old) and female headed households, loss of trees, loss of rental revenue, loss of communal facilities (churches and hand dug wells), loss of undeveloped residential and commercial plots and the spread of HIV/AIDS.

On the positive side, the affected community will benefit from employment opportunities that will be created by the project, receive electricity supply through the rural electrification programme and increase economic activities through the use of electricity. This impacts are discussed in the section below

### **4.1 Anticipated Negative Environmental Impacts**

#### **4.1.1 Wayleave Routes and Acreage to be Acquired**

The land valuer and surveyor conducted detailed inspection to obtain the necessary data/details related the way-leave route. The filed finding and review of project maps indicated that wayleave route area covers the following areas ; Kipkarren, Pioneer, Kapsereti, Western view farmers village, Kipkenyo, Sosiani, Kapinga, Chemelal , Lesseru villages, Kamagut , Emgwen, Kenya Ordnance Factories, Barracks, Sheiwe, Lawiyet, Soy, Msalaba Yellow, Ziwa, Nangili, Kongoni, Lukuyani, Mukunga, Matunda, MoisBridge, Sokomoko, Sonoko, Kebuluet, Kapkoi, Waitaluk, Potwa, and Central.

The total area of land to be acquired measures about 487.5 acres which is currently under several uses namely agricultural, institutional and commercial.

#### **4.1.2 Impact on Land and structures**

The proposed project shall not adversely affect agricultural land as most of them will still be put into sustainable even after installation of the proposed transmission line.; but structures especially in those in non-agricultural land are likely to be adversely affected by the project. The structures likely to be affected by the proposed project are listed in the table 4.2 below:

Most commercial of the commercial centres weremade of masonry stones beneath GCI sheets roof on trusses and parallels.

**Table 4.1.2: Impact of the proposed project on structures**

No./S	Type of Structure	Category of use	Number	Locality	Remarks
1.	Mansory Bungalow	Residential	2	Western View Farmers village, Pioneer location, Kapseereti Division.	Can be avoided by installing line in the vast wheat farms in the area
2.	Mansory Primary School	Institution	1	Western View Farmers village, Pioneer location, Kapseereti Division.	
3.	Mansory massionate	Residential	1	Kipkenyo village, Pioneer location, Kapseereti Division.	Will be difficult to avoid as area has small open land; if avoided transmission line will be very close to the house; if line is moved eastwards it will be on the river riparian and pass through the dumping side and sewage treatment plant in the area; if move westwards will affect other housing but of lower value including semi-permanent houses which is consider to be a least cost option
4.	Semi-permanent house	Residential	2	Kipkenyo village, Pioneer location, Kapseereti Division.	It will be difficult to avoid this as the area has little open space if moved west wards will affect a larger settlement with about 20



No./S	Type of Structure	Category of use	Number	Locality	Remarks
					School located opposite the road and they added that removing them from their will deny them access to potential clients.
8.	Semi-permanent houses	Residential	7	Mukunga B, Lukuyani Division	The structures can be avoided as land is relatively big about an acre but the area is considered to be relatively dense also
9.	Mois Bridge Town Trading Centre	Commercial cum residential	20	Mois Bridge Town	The line cuts through the edge of the town closer to the railway station thus will affect the structures. The community members also suggested that the line be re-aligned further southwards to avoid the shops which has been their sources of livelihood for decades. Some of the PAPs were elderly and stated they possess very small parcel and won't know how to start life if relocated
10.	Clay bricks bungalow	Residential houses	15	Meje village, Mois Bridge	The area is densely populated with mixed use; several houses were still undergoing construction on small plots
11.	Trading units	Commercial	10	Meje village, Mois Bridge	The area is densely populated with mixed use; several shop units were seen near the

No./S	Type of Structure	Category of use	Number	Locality	Remarks
					residential houses
12.	AIC Kilimo church School, Kibomet	Institution	1	Ex-Cullen, Mois Bridge	The church is a permanent building
13.	AIC Tenai Primary School	Institution	1	Ex-Cullen, Mois Bridge	The school is made of permanent building material
14.	Masonry Bungalows	Residential	4	Ex-Cullen, Mois Bridge	The residential houses belong to one family and are made of permanent building materials and have a well as source of water
15.	Masonry Bungalows	Residential	10	Kapkoi, Waitaluk location	The houses are located near the Kitale tarmac road will be hard to avoid unless the line is re-routed over 500m southwards but generally the area is relatively dense and has a dispensary and trading centre
16.	Kapkoi Trading Centre	Commercial	15	Kapkoi, Waitaluk location	The trading centre is located a few meters from the residential houses mentioned above and can only be avoided if line is re-routed southwards by about 500m where there are semi-permanent houses and area is less dense.



No./S	Type of Structure	Category of use	Number	Locality	Remarks
17.	Mansory Bungalows	Residential	5	Wekhoya/Toro Farm in Waitaluk	
18.	Lamp Lighter Primary Boarding School location, Waitaluk Division	Institution	1	Waitaluk	The school is located at the end of one of the proposed alignment
19.	Mansory Bungalows	Residential	10	Waitaluk	This housing structures are located next to the boarding school and belongs to the staff of the school
20.	Kibomet Primary School	Institution		Kibomet	The school is located at the end of the proposed line and can be avoided by ending the line at Naisambu in the open maize fields
21.	Masonry Bungalow	Residential	12	Kibomet	The residential houses are located at the end of the proposed line and can be avoided by ending the line at Naisambu in the open maize fields
22.	Clinic health centres	Commercial	3	Kapkoi and Ex-Cullen	The clinics are located within the health centres will be hard to avoid if the tading centres are acquired will thus need development of new ones.

### **4.1.3 Land Use/Zoning and Occupancy**

Most plots /parcels of land falls under mixed user with agricultural cum commercial or agricultural cum residential as the most dominant land use patterns within the localities and neighbourhoods. Commercial developments include mainly shops and food outlets other businesses were found singularly such as hardwares, clinics etc

At the time of our inspection most properties in private holdings were owner occupied. That is, occupied by the registered owner and his immediate or extended family. This was also confirmed by inspecting the relevant registry Index.

### **4.1.4 Services**

Mains electricity was either connected or within the neighbourhood for connection on application by the land owner. The community obtained water from mostly from the streams and water wells found within their neighborhoods apart from those in towns like Mois Bridge, Eldoret and Kibomet near Eldoret had fresh water supply. Sewer management was mainly through the use of pit latrines.

Most of project area was seen to have adequate access either through the tarmac Eldoret-Kitale Road or the several murrum roads in the area. The area the least road network was around Lukuyani in Lugari district.

Atleast five schools are likely to be affected by the proposed project and this will affect the schooling of the children. The DOD institutions namely Kenya Ordnance Corporation Factory, The Recruitment Training Institute and the 9KR are also likely to be affected by the project but the management suggested that it is preferable that the project avoid the institutions as the project might affect their activities such as training and production of sensitive ammunitions.

### **4.1.5 Vulnerable Groups.**

Analysis of the socio-economic survey results showed that of the three hundred and fourty six PAPs interviewed, 11.4 % were aged between 61-70 years and 2.9% were aged 70 years and above; 4% of the affected people were widowed and 4% of the households were headed by single mothers; less than 5% of the women in the project are own property or run businesses and most decisions are made by men at the household level. . This vulnerable group of the aged and female headed households will require special assistance.

### **4.1.6 Loss of Rental Revenue**

The proposed project was seen to traverse across several residential houses and other revenue generating structures that belong to the community members such as the trading centres. Some community members about four ( 4) PAPs at household level stated that they also use their residential units for rental purposes and most of the trading centres are owned by individuals who rent them out to traders in the community. This loss of shops and residential units will affect the income streams of the PAPs.

#### **4.1.7 Socio-cultural Impacts**

The proposed project is likely to empower the community financially which if not observed well will lead to multiple social impacts like alcoholism and other substance use which in turn can lead to spread of diseases such as HIV/AIDS and STDs. Community members who shall lose houses and business should be provided with income and livelihood restoration facilities such as form of compensation as opposed to strictly monetary compensation in order to cushion them against mismanagement of funds which may subsequently lead to worse living conditions.

#### **4.1.8 Environmental Impacts**

The proposed project is anticipated to have some temporary environmental impacts such as loss of vegetation, dust evolution, noise and vibration generation among others. The impacts should be mitigated against as proposed in the Environmental Impact and Social Assessment Report of January 2010. The site of resettlement should also be assessed for its socio-environmental status and suitability.

#### **4.2 Positive Impacts**

The overall objective of the project is positive and will lead to several secondary and multiplier positive impacts to the community despite the fact that for its implementation a few community members have to be inconvenienced. Some of the positive impacts anticipated from the proposed project include:

##### **4.2.1 Employment Creation**

Several employment positions will be created by the project during the planning, construction and maintenance phase. Several people will be employed as both skilled and non-skilled workers during this project development phases which will also include the land acquisition phase. Some of the employment positions likely to arise during the project implementation phase are professional vacancies such as community development experts, sociologists, environmentalists, public speech experts, engineers surveyor etc. Non-skilled labours will be required for relocation of PAP, bush clearing and excavation of the wayleave among other jobs. This will benefit the whole country as it is currently facing challenges in providing job positions for the citizens.

##### **4.2.2 Electricity Supply**

The proposed project will provide the community member's with reliable supply of electricity thus play a major role in boosting their economic status. The community members mentioned that the project will enable them develop small-scale agro-based industries which are dependent on electricity such as yoghurt making, food preservation, pumped irrigation among other socio-economic activities.

##### **4.4.3 Improved Living Conditions**

The PAPs are likely to benefit from the projects programmes such as restoration of livelihoods, construction of new houses especially those living in semi-permanent houses.

### **4.3 Mitigation Measures**

The proposed project has been earmarked due to the problems faced by community members due to lack of water. The project is a positive though it has high initial impacts that can be mitigated against early before project implementation. Some of the proposed mitigation measures should include:

#### **3.4.1 Alternative to minimise resettlement**

The field studies and comments obtained from the community members indicated that the proposed way leave could be re-aligned to

Despite that the consultants managed to devise an alternative route to avoid interfering with the Kaptiki forest along the Musava- Ishiru route.

#### **3.4.2 Livelihood Restoration**

It is proposed that all those that affected should be compensated to ensure that their livelihoods have improved or restored to the pre-impact status. Livelihood restoration should be in form of development of new houses and shops, provision of relocation assistance, training on skill development and capacity building on areas such as enterprise training and, job creation, agriculture, community participation and, management and, Health and, Hygiene, education and PAPs empowerment.

The compensation and restoration of livelihoods should be based on the following principles:

- Land-based compensation should be the preferred option and will be based on the principle of equal productivity and/or value. Assistance with purchase and registry will be provided and such land should be free from all encumbrances.
- Payment of cash compensation for lost assets may be appropriate where: (i) livelihoods are not land-based; (ii) livelihoods are land-based but the land taken for the project is a small fraction of the affected holding and the residual land is economically viable; (iii) replacement land or housing of comparable quality is not available locally; or (iv) active markets for land, housing, and labor exist locally, displaced persons use such markets, and there is sufficient supply of land and housing. Cash compensation levels will be sufficient to replace the lost land and other assets at full replacement cost in local markets. The PAH/PAP (owner) receiving the compensation should be persuaded to operate through a joint account in the name of both the entitled person and his or her spouse, unless the person is divorced or separated. The purpose for which the money could be used will be monitored by the monitoring team. The PAHs should be encouraged to invest in creation of capital, property, payment of debts, or enhancing their livelihood. These processes will be explained to the PAHs/PAPs in village level consultations held before the land acquisition process, and in accordance with the schedule of consultations outlined in the community engagement plan.
- The PAHs/ PAPs should be encouraged to purchase alternative land with their compensation (through the Land Purchase Assistance Programme LPAP), so as to

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facilitate their income restoration and return to their previous socio-economic activities. This assistance will be provided by the rehabilitation team. This team will assist the families in identifying alternate lands and will provide information on the market prices prevailing in the area.

- Transition assistance/allowance will be provided to vulnerable PAHs and eligible entitled PAPs. The method of assistance and allowance will be developed as part of the compensation package.
- Start-up assistance/ allowance will be provided for PAHs/ PAPS who chose the land-for-land option. The method of assistance and allowance will be developed as part of the compensation package. PAHs/PAPS will be allowed to harvest crops as well as transfer fruit trees to the extent possible and within the relocation schedule.
- Land purchase assistance shall be provided to entitled PAHs/PAPs from the rehabilitation team. The assistance will be in the form of:
  - Disseminating information about availability of different categories of land and their values
  - Helping the PAPs in identifying alternate lands and applying for bank loans, if required.
  - Assisting PAPs with acquiring land title.

The project recognizes that households falling within a certain threshold due to the land acquisition process could become more vulnerable than others and may need additional rehabilitation assistance. Such PAHs or PAPs will be identified as early as possible in the process and will be provided with additional support, assistance or compensation based on a reasonable and rational criterion.

In addition, the project will provide land purchase assistance to PAHs and PAPS who want to use their compensation to buy alternative lands. Costs of registration fees, etc for acquiring similar land/ structure will be reimbursed on actual costs or fair market value.

The RAP activities that will be undertaken by the project will also be designed and implemented to contribute additional assistance (transition allowance) to the rehabilitation of the affected households. The plan will also provide a detailed schedule for the implementation of the RAP.

- Crop compensation will be paid in accordance with fair market value. A survey will be performed to assess fair market value.
- Income restoration should be part of the monitoring programme normally carried out over a 3 year term with periodic reviews. Specific attention should be given to requirements of women and vulnerable people and the physical challenged.
- Community development plans should form part of the RAP and be investigated as possible mitigation options when communities are negatively impacted by the project.

### 3.4.2 Environmental Management and Restoration

Environmental management and conservation measures should be incorporated as integral part of the project in order to minimise impacts to transferred to the community members in the project area. Anticipated negative environmental impacts mentioned in section 3.2.1.6 should be mitigated by undertaking dust palliation, revegating the project area and buffering community members against noise and vibration especially in when working in inhabited areas and areas of animals concentration.

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The community members should be trained and engaged in water conservation campaigns such as those on rain harvesting, tree planting, water use management among others. Trees uprooted should be replanted and more trees of indigenous species should be planted in the project area. These water conservation measures will ensure sustainability of the project through enhancement of the water catchment area if the correct tree species are planted and will also ensure downstream water users who depend on the river get water for their uses.

## **4. Public and Stakeholders Consultation**

### **4.1 Community Engagement Requirements**

A community engagement plan should be developed and should be implemented as a continuous process in order to engage stakeholders in meaningful consultations about the project. The concerns and aspirations presented should be addressed and fed back given to the community members the information exchanged can help the development and monitoring of the RAP.

The Principles of community engagement should ensure that:

- All stakeholders must be consulted and be effectively involved in a two-way communication with the project sponsors. Special efforts should be made to consult with women and vulnerable communities.
- The RAP includes an explicit public information strategy. This will include the use of mass media, possibly through radio and television, to advise the dates and times of public meetings, availability of documents, selection criteria, cut-off dates, and compensation measures.
- The consultation should be preceded by providing all the relevant and accurate information.
- All relevant information are disclosed by the proponent to affected persons and communities, including host communities and they should be involved in decision-making processes related to resettlement. These disclosure and consultations should continue during the implementation, monitoring, and evaluation of compensation payment and resettlement to achieve outcomes that are consistent with the objectives of the with the OP 4.12.
- That consultations with different stakeholders is undertaken through a language and medium they are comfortable with; and in areas where the stakeholder is not comfortable with the language or do not easily understand the information relied, proponent (KPLC) shall take responsibility for simplifying and ensuring that the whole process is understood by the PAPs, using appropriate methods of communication.
- There are specific and transparent mechanism for the recording of grievances and their timely resolution. KPLC should make every effort to resolve grievances at the community level without impeding access to any judicial or administrative remedies that may be available.

- Where affected population do not have land titles, cadastral surveys may have to be carried out to establish the basis for compensation and procedures will be established to regularize and recognize claims to land, including claims that derive from customary law and traditional usage.
- Clear communication of responsibility and accountability procedures, personnel and resource availability for effective implementation of plan shall be put in place.
- A schedule is prepared and disseminated in appropriate places within the footprint of the project detailing the time, place for consultation and contact details of the lead person.

## 4.2 Information Exchange

The resettlement exercise often leads to the dislocation of kinship groups, reduction in livelihood standards of the PAPs and might also impact adversely on the host community. The participation of stakeholders in the planning and execution of the RAP can cushion against adverse impacts and thus promote its acceptability. **In this regard, government agencies and local community members have taken part in** the preparation of this RAP by attending public forum held in the area, filling pre-defined questionnaires, discussing pressing issues with the project team consisting of land valuer, land surveyor, socio-expert and environmental experts.

A good example of information exchange and sensitization was the organization of public forums in Shiplala on 15<sup>th</sup> March 2010; where the area DO, all the area Chiefs, the KPLC representative and other governmental representatives from different departments including the Water Resources Management Authority (WRMA), the National Environment Management Authority (NEMA), Agricultural Officers among others participated in order to brief the PAPs on various issues concerning the proposed project, water management and planned resettlement. The list of people who attended the meeting is shown in Appendix 3.

## 4.3 Household Census and Baseline Socio-Economic Survey

A household census and socio-economic survey was conducted from the 19<sup>th</sup> February to 3<sup>rd</sup> March 2010. The census finding indicated at least 156 households will be affected by the project and this will include institutions, commercial entities and residential dwellings. Among the affected households about one hundred and twenty six (126) household conduct commercial agriculture on the land, two have rental houses, two conduct trading activities and one provide educational services.

The survey enable identified the PAPs in terms of gender, age, educational levels, type of occupation, their opinion on the project, including alternatives to be considered and their preference for resettlement among other socio-economic parameters. Other data collected included identification of direct and indirect impacts on the people including impacts on physical infrastructure and economical activities.

The socio-economic survey enable the consultants collect the following details:

- Name and family details

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- Demographic information on social classification, education and occupation of each family member
- Skill base/ education level for each member
- Total family income (from all sources)
- Details of land ownership and extent of land loss due to the land acquisition/ negotiation. (Actual land ownership, and not only in terms of land records)
- Details of income loss due to loss of land (from agriculture, plantation, labour and sharecropping).
- Details of any structure or asset on the impacted land
- Identification of vulnerability (women-headed household, family with physically and mentally challenged members, family with aged members, family with income below poverty line and family losing more than the economic threshold of their land through acquisition/ negotiation)

The findings of the socio-economic survey including project impacts, resettlement preference and project mitigation **measures below.**

#### **4.4 Nomination of PAPs' Representatives**

The community members should also be involved in the implementation of the RAP. During the consultative meeting mentioned above, the PAPs were advised to develop an Area Development Committee (ADC) which will look into all issues regarding development and resettlement if it arises with the development. The committee shall also have representatives on the Resettlement Steering Committee (RSC) which will be formed by the project proponent.

The main function of the ADC will therefore be the following:

- Assist in the mobilization and sensitization of the PAPs;
- and Provide input into the RSC meetings.

The consultants explained the details of the proposed project and areas it is likely to traverse and the people who attended the public meeting were then asked to state their concerns and expectations regarding the project. Generally, many had heard about the project and were anxious about it but their main concern was how they will be compensated for their lost property and how the water project will be maintained sustainably to avoid previous negative experiences such as mismanagement, erratic water losses, high billing etc. The minutes of the meetings is also shown in appendix 3.

#### **4.5 Identification of Host Community**

Majority of the PAPs to be resettled stated that in case they are resettled they would to be resettled in the same community or the same district. Identification of area to resettle those affected should be conducted early enough and the host community should also be sensitized on the proposed move to enable them understand how this will affect them and ensure co-existence of the host and the resettlers. It is advisable that during the sensitization of the host community the two parties meet to enable initiate interactions.

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## 5. Organisation Responsibility and Framework for Rap-Procedures

### 5.1 Introduction

Any project which includes the acquisition of land either of a temporary or permanent nature requires the development of a project-specific RAP or Compensation Framework. The impacts due to involuntary resettlement for development projects, if left unmitigated, often gives rise to severe economic, social and environmental deprivation. These may result in production systems being dismantled, people facing impoverishment when their productive skills may be less applicable and the competition for resources greater; community institutions and social networks being weakened; kin groups being dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost. The resettlement policy OP 4.12, in most cases, is not triggered because people are being affected by physical displacement but it is triggered because the project activity may cause land acquisition, whereby a physical piece of land is needed and people may be affected because they are cultivating on that land, they may have buildings on the land, they may use the land for water and grazing of animals or they may otherwise access the land economically, spiritually or any other way which may not be possible during and after the project is implemented. Therefore, affected people in most cases have to be compensated for their loss (of land, property or access) either in kind or in cash. According to the Banks experience, resettlement of indigenous peoples with traditional land-based modes of production is particularly complex and may have significant adverse impacts on their identity and cultural survival. All viable alternative project designs should be explored to avoid physical displacement of these groups.

These activities likely to be triggered by the resettlement are:

- Screening of project area for land acquisition and displacement impacts
- Socio-economic survey and Evaluation of Properties
- Community Consultation Programme
- Formation of Resettlement Steering Committee
- Confirmation of Resettlement Sites
- Announcement of cut-off date
- Preparation of Resettlement layout and design maps and plot demarcation
- Construction of New Structures where applicable
- Movement of PAPs to New Site or provision of agreed compensation
- Internal Impact Monitoring
- External Impact Monitoring

The first three activities have been conducted for the purposes of developing this RAP. The remaining eight activities shall be conducted using the RAP document as a decision making tool.

The project-specific RAP must take cognisance of the following:

- Requirements of the laws of Kenya Development of a project-specific community engagement strategy
- Posting a project Eligibility Notice both in the local media and at appropriate locations within the footprint of the project.

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- Identify the nature and magnitude of the land acquisition needed in terms of permanent and temporary requirements for the project.
- Have a clear definition of the PAP by socio-economic and gender category; household or family; the cut-off dates for eligibility for compensation; the assets to be compensated at replacement cost.
- Develop an implementation mechanism for the delivery of the entitlement compensation package, as well as to meet the objective of the RAP.
- Undertake a detailed socio-economic survey in order to identify entitlement, key issues faced in terms of land acquisition and compensation; and options and strategies for minimising impacts on current land use activities or cultural heritage.
- Provide specific rates for compensation of loss of assets at fair market and equitable value and the methodology of how these values are derived.
- Set out the land acquisition and compensation processes, options available, eligibility and entitlement and consultation and grievance referral and redress mechanisms (GRRM).

The RAP has been prepared by taking into consideration all the above requirements and all the study findings and the proposed RAP implementation plan has been presented in this report.

## **5.2 Resettlement and Compensation Action Plan**

Following the collection of the baseline data, market surveys for structures, land and crops a resettlement action plan or compensation framework should be developed providing options for eligible PAHs and PAPs taking cognisance of the feedback from the various stakeholders. Meetings will be set up to disclose the various resettlement and compensations options available for all PAHs and PAPs. At the meeting the resettlement, rehabilitation, assistance and compensation options available will be discussed in broad general terms and further meetings will be arranged to discuss with individual PAHs and PAPs the specific resettlement, rehabilitation, assistance and compensation options that are applicable to them.

### **5.2.1 Resettlement Action Plan Schedule:**

The implementation times will be pegged on the following process

- RIC and PIU is constituted
- PC is constituted
- PC signs off on the RAP. This constitutes KPLC acceptance of the terms of the RAP.
- KPLC draws up offer documents for affected people and advertises the fact that offers will be made.
- The affected people review the offers made and enter into agreements with KPLC.
- The affected people will have to identify alternative sites surrender the land and move off the project site. These affected people shall do this on the basis of “willing buyer-willing seller principle”.
- Monitoring of the “willing buyer - willing seller” affected people begins

### **5.2.1.1 Implementation Process for the Rap**

The implementation and management of the RAP schedule should be designed to facilitate the

- Implementation of the RAP activities within an agreed time frame and budget.
- Timing should be appropriate to avoid fake claimants for compensation especially if situation arises where site clearing begins immediately before cut-off date or on the other hand late start of implementing RAP might derail project .
- It is appropriate RAP implementation commences as soon as the sponsor (World Bank) gives approval in order to minimize the anxiety of the PAPs. This should be followed by disclosure by the proponent and engagement of a contractor. At this point payment of cash compensations to the PAPs is required.
- Implementation schedule should avoid site preparation and relocation during the rainy or seasons of cultural activities.

The RSC should meet at least twice a month in the initial steps of RAP implementation for the first two months then in subsequent months meet at least once a month.

### **5.2.1.2 Eligibility Notice**

A project eligibility notice should be posted both in the local media and at appropriate locations within the footprint of the project. In accordance with the good practices on resettlement and the community engagement plan a notice must be published informing communities and PAPs of the cut-off date for compensation eligibility.

The cut-off date will determine the eligibility of the PAPs for compensation and new inhabitants coming to the project affected areas will not be considered for compensation. The cut-off date for title holders will be the date of first notification under the land acquisition process and in case of non-title holders the date of census survey will be reckoned as cut-off date. Suitable measures should be taken to prevent further encroachments after establishing the cut-off date.

### **5.2.1.3 Legal and Legislative Requirements**

A summary of the legal framework, policies, principles and objectives that govern the land acquisition and compensation processes should be prepared and disclosed to PAPs.

Where the information is not easily understood by the people, the proponent shall take responsibility for simplifying and ensuring that the requirements and procedure is understood by the project affected persons, using appropriate methods of communication.

### **5.2.4 Land Acquisition**

The RAP should provide both detailed and locational maps identifying the nature and magnitude of land acquisition needs for both permanent and temporary needs of the project.

The maps will detail the extent of the impact of land acquisition on each individual project affected household (PAH) and to the extent possible each PAPs asset/economic interest in the land to be acquired.

In cases where the family members have informally divided and cultivated their ancestral land with no mutation legally recorded, the portion of the land currently being farmed or resided upon by the PAP will be allocated in accordance with their mutation arrangement and the disbursement of compensation will be pro rata basis on a acreage/percentage basis. However, the compensation option entitlements will be calculated on the overall size of the land parcel or PAH basis.

**Table 4.9.2 Resettlement Action Plan Activity Schedule:**

### **5.2.5 Appointment of Implementing Agent**

Implementation of the RAP requires the services of qualified experts. Upon approval of the RAP, LVWSB should recruit a qualified professional to undertake the implementation exercise. The duties of the agent will include, but not be limited to, liaising with the civil works contractor, the PAPs and other key stakeholders. The implementing agent will be expected to:

- Deal with complex issues that will emerge during the implementation process;
- Be present throughout the RAP implementation process;
- Be skilled in managing community expectations
- Be experienced with Kenyan social issues;
- Have budgeting skills;
- Be punctual in meeting deadlines; and
- Possess project management skills for development as well as construction projects.

The RAP Implementing Agent could also form part of the Design and Supervision team and the detailed activities to be conducted under at this stage will include the following :

- Awareness Creation:- The implementing agent will, in consultation with the local administration and RSC , sensitize the PAPs on various aspects of RAP activities from project inception to completion.
- Conduct Head Counts of PAPs;
- Identify resettlement area (s) and prepare layout plans;
- Demarcate, survey and number plots;
- Allocate plots to the PAPs;
- Monitoring the relocation of PAPs to the new site;
- Promotion or sensitization on resettlement;
- Undertaking technical supervision of new structures to be built (if any);
- Ensure that the PAPs are resettled according to RAP Guidelines;
- Facilitate full community participation in the planning and implementation of the RAP;

- Promote linkages between the PAPs and NGOs in respect of income generation activities; and
- Facilitate for provision of security of land tenure.
- Cultural and Ethnic Set Up
- Land Tenure
- Economic and Employment Opportunities

### **5.3 Compensation Phase**

The implementation committee will check the affected households/ plot owners against list of eligible persons announced at cut-off date. The aim is to ensure that the correct compensation amount is paid to eligible persons.

#### **5.3.1 Implementation Mechanism**

The RAP will require that an implementation mechanism be set in place for the delivery of the entitlement package, as well as to meet the objective of the RAP. The strategy of implementation which should be managed by the PIU should include the delineation of roles and responsibilities of organisations/ institutions, as well as community groups, the procedures to be followed along with the support facilities available and a timeframe for implementation of each of the resettlement activities which include :

- Community Engagement
- Issuance of Eligibility Notice
- Land Survey
- Asset Inventory
- Census survey of the PAPs
- Issuance of Identity Cards
- RAP Stakeholder Consultation
- Alternative land survey
- Land Acquisition
- Payment of Compensation
- Land Purchase
- Moving assistance Land clearance
- Rehabilitation and Income Restoration
- Community Development (if deemed appropriate or necessary)
- Monitoring and Evaluation

#### **Resettlement and Compensation Action Plan**

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- Implementation schedule should avoid site preparation and relocation during the rainy or seasons of cultural activities.

The RSC should meet at least twice a month in the initial steps of RAP implementation for the first two months then in subsequent months meet at least once a month.

### **5.3.2 Compensation and Relocation Times**

These should be properly chosen to minimize transfer disturbance, as to be indicated in the implementation table

### **5.4 Integration with host communities**

The RAP plan should have arrangements for consultation with host communities and for prompt payment to the host for land and other assets to be provided to the resettled persons.

The RAP plan should also develop mechanism for resolving conflict which may arise between the resettled persons and the host communities should be put in place and, appropriate measures should be formulated to augment public services such as education, water, health in host

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communities in order to avoid disparities between resettled persons and the host communities should be put in place.

The resettled persons should be integrated economically and socially into host communities so that adverse impacts to host communities are minimized.

### **5.5 Implementation Schedule and the RAP Budget**

The responsibility for the RAP implementation will lie with the PIU under the supervision of the RSC. It is anticipated that the PAP's would be resettled as agreed before commencement of the rehabilitation project. The RAP budget is the sum of site preparation, compensation estimates, costs of professional services including project management and monitoring services.

An implementation schedule covering all resettlement activities from project preparation through implementation to monitoring and evaluation indicating dates for achievement of expected benefits to resettled persons and hosts and dates for terminating the various forms of assistance is shown in figure 4.9.2 namely Resettlement Action Plan Activity Schedule

### **5.6 Reporting**

The implementation agent will provide progress reports to the RIC and PIU on her/his accomplishments at every quarter during the RAP implementation phase.

### **5.7 Grievance Referral Redress Mechanism**

Grievance redress mechanisms are essential tools for allowing affected people to voice concerns about the resettlement and compensation process as they arise and, if necessary, for corrective action to be taken expeditiously. Such mechanisms are fundamental to achieving transparency in the resettlement process.

All disputes will be referred to the RIC or the PIU and then if necessary, the project affected people (PAP) committees who will be asked to provide recommendations as to how it is to be addressed. If deemed necessary by the PAP committee the case will be re-investigated and, depending on the nature of the issue, referred to the National Environmental Tribunal or Public Complaints

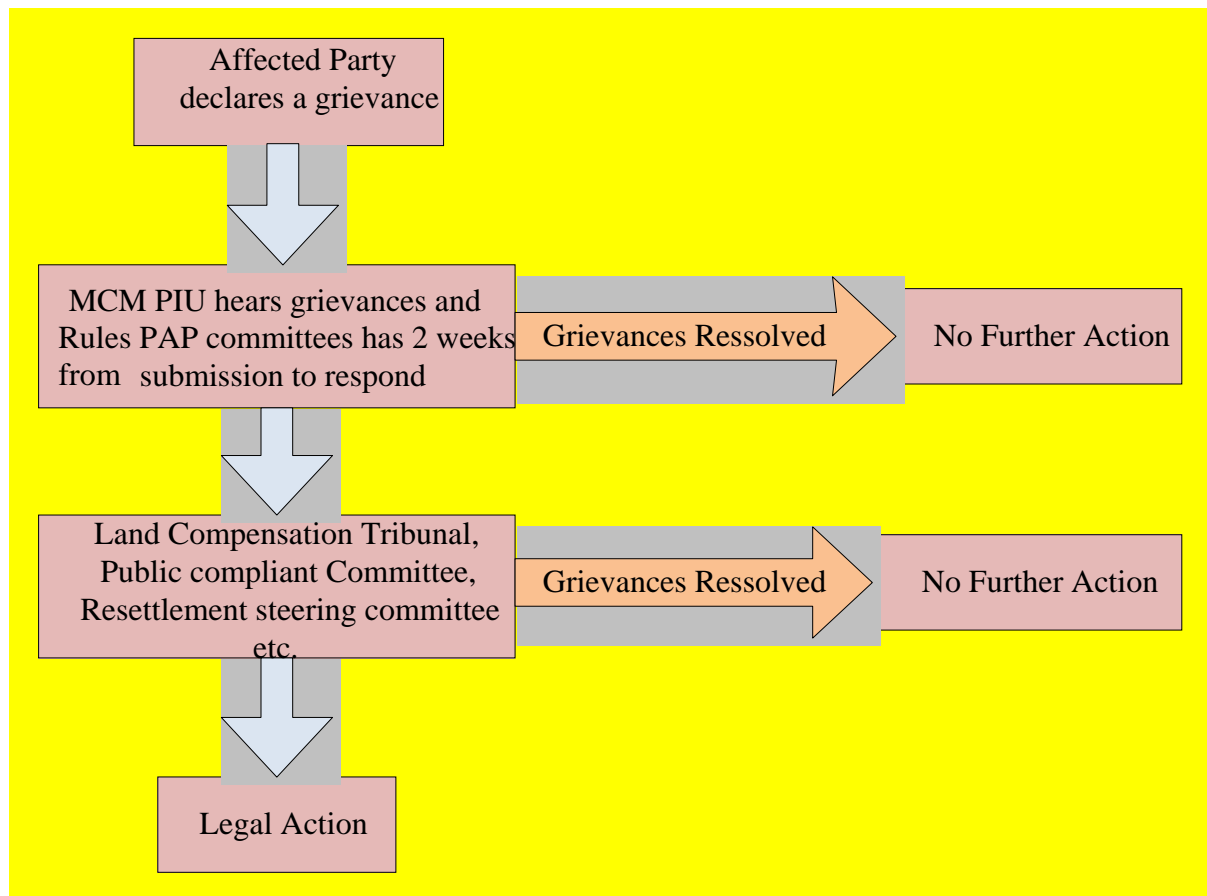
Grievances will be dealt with as represented in Fig. 4.10.

#### **5.7.1 Procedure of Grievances Settlement**

- Grievances will be filed by the person affected by the project to the chairperson of PC of the project area, who should immediately report the same to the MCM through a selected representative who should be a member of the PIU for a resolution.
- If no understanding or amicable solution can be reached, or if the affected person does not receive a response from the representative within a reasonable space of time, then the chairperson shall seek redress from the RIC who should respond within a given and stipulated time framework after receipt of the complaint.
- If the affected person is not satisfied with the decision of the RIC, he/she, as a last resort, may submit the complaint to a court of law.



Affected persons should be exempt from all administrative and legal fees incurred through the grievance redress procedures. All complaints received in writing (or written or received verbally) will be documented. A schematic diagram of the grievance redress will be provided in the final report showing the levels of conflict resolution.



**Figure 4.10: Grievance Redress Procedure**

It is for the benefit of both the Client and the PAPs to devise a mechanism through which complaints and disagreements can be resolved. The RAP implementing team should develop and prepare an appropriate GRRM project specific policy that outlines the formation and function of a committee or appeals mechanism. The specific terms of reference for the committee will be drawn up on its formation and will follow similar GRRM procedure models with an objective to settle disputes, monitor and record the outcome. Specific objective will be to facilitate the process, ensure effective and timely resolution thereby reducing the risk of escalation of conflicts and avoiding unnecessary delays. The committee shall ensure careful documentation of grievances and remedial actions to enhance accountability and to reduce liability.

If negotiated settlement of grievances cannot be achieved through the normal procedural steps outlined in the mechanism of the committee, the complainant has the right to approach the court. A detailed information booklet on the GRRM procedure will be included in the community engagement plan to ensure that all PAPs know and understand the process and are able to access

it whenever they feel the need. The effectiveness of the GRRM will be one of the crucial monitoring indicators.

The grievance framework recommended for this RAP should be build on already existing structures within the affected community. It was found some areas already have Location Development Committee (LDC), Area Development Committees (ADC) or Land Dispute Committee (LDC) which can act as the first point of call for resolving grievances. If not satisfied, the committee will report the complaint for resolution at a higher committees e.g the Resettlement Implementing Committee (RIC) which should involve several stakeholders. If further disagreement arises, the PAPs should be advised to seek legal advice through the courts of law.

Resettlement Implementing Committee is mandated to assist in the GRRM. The RIC will be at the core of the local organizational structure reparation and implementation of the Resettlement Action Plan in accordance with the approved activities, stipulated time frame and budget. Most importantly, the RIC will ensure that key stakeholders mentioned in the RAP are in tune with the resettlement activities and the linkages thereof with the initiation of works.

Information about all dispute and grievance procedures is to be widely disseminated, through consultative fora, and the media. The PAPs committee secretary or nominated agent (in the absence of the secretary) will keep a written record of all disputes/grievances raised and dealt with during the resettlement and compensation process. These records will be monitored regularly by the PAPs Committee and by the independent Monitoring Team. This will be undertaken as part of the on-going monitoring and evaluation process. Public grievance form is attached in Appendix 1.

## **4.11 Monitoring and Evaluation**

### **4.11.1 RAP Monitoring Framework**

Monitoring and Evaluation (M&E): Involves developing the monitoring and evaluation protocol through analyzing information regarding resettlement activities by the implementing agency or independent monitors (supplement the role of the implementing agency) to ensure objectivity and completeness of information.

Monitoring helps evaluate the success of resettlement through the study of specific performance indicators for a reasonable period of time after the resettlement activities have been completed. for measuring inputs, outputs and outcomes of resettlement activities and for evaluating impacts

### **4.11.2 Internal Monitoring**

It is the responsibility of the proponent to conduct regular internal monitoring of the resettlement performance of the operation. The monitoring should be a systematic evaluation of the activities of the operation in relation to the specified criteria of the condition of approval.

In undertaking the same, MCM Resettlement Implementation Unit (RIU) will be responsible for implementing resettlement and compensation activities and it will therefore be their responsibility to undertake regular internal monitoring of the process.

The objective of internal monitoring and supervision will be:

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- To verify that the valuation of assets lost or damaged, and the provision of compensation, resettlement and other rehabilitation entitlements, has been carried out in accordance with the resettlement policies provided by the GOK, and the WB.
- To oversee that the RAP is implemented as designed and approved;
- To verify that funds for implementation of the RAP are provided by the Project authorities in a timely manner and in amounts sufficient for their purposes, and that such funds are used in accordance with the provisions of the RAP.

The main internal indicators that will be monitored regularly:

- That the MCM entitlements are in accordance with the approved policy and that the assessment of compensation is carried out in accordance with agreed procedures
- Payment of compensation to the PAPs in the various categories is made in accordance with the level of compensation described in the RAP
- Public information and public consultation and grievance procedures are followed as described in the RAP
- Relocation and payment of subsistence and shifting allowances are made in a timely manner
- Restoration of affected public facilities and infrastructure are completed prior to construction

#### **4.11.3 External Monitoring and Evaluation**

The Consultant recommends that an independent monitoring unit (IMU) be established to evaluate implementation of compensation and resettlement. The IMU shall be appointed to monitor the resettlement and compensation process and implementation of requirements to verify that compensation, resettlement and rehabilitation have been implemented in accordance with the agreed RAP. The IMU will also be involved in the complaints and grievance procedures to ensure concerns raised by PAPs are addressed.

More specifically, the IMU will carry out the following:

- Review the results of the internal monitoring and review overall compliance with the RAP
- Assess whether relocation objectives have been met especially with regard to housing, living standards, compensation levels, etc.
- Assess general efficiency of relocation and formulate lessons for future guidance
- Determine overall adequacy of entitlements to meet the objectives.

The RAP will develop a monitoring plan that includes both internal and external monitoring. There will be a three tier process that will include internal field monitoring by the RIC and/or the PIU implementation manager as well as the overall monitoring by the RAP manager (IA).

A framework listing indicative resettlement performance indicators for monitoring purposes will be developed. A schedule of when monitoring will be carried out will be developed and shall run for a minimum of three years after completion of the RAP. The RAP team will work closely with the external monitoring that will be undertaken by the lenders independent resettlement specialist. Monitoring and evaluation will assist in ensuring that compensation measures are correct, all eligible persons have received their entitlements and that implementation of the RAP is proceeding well. A list of indicators will include:

- Input indicators e.g. sources and amounts of funding for various RAP activities
- Output indicators that concern activities and services which are produced with the inputs e.g. payment of compensation for loss of property

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- Public participation indicators e.g. creation of Resettlement Steering Committee,
- Outcome indicators that are designed to cushion the PAPs from the stress of relocation e.g. restoration of PAPs incomes and satisfaction in reinstatement activities and finally
- Impact indicators which assess the change in living standards of PAPs e.g. whether the RAP is effective in maintaining or restoring the social standing of the PAPs, especially the vulnerable groups.

The main aim of monitoring will be to verify that:

- Activities described in the RAP are implemented fully and on time. These are formation/enlargement of the Resettlement Steering and Committee, holding stakeholder stakeholders consultation meeting and training of the PAP's in survival activities;
- Eligible PAPs receives their full compensation entitlements within agreed time frames;
- RAP activities and compensation measures are effective in sustainably enhancing (or atleast restoring) PAPs' living standards and income levels
- Complaints and grievances lodged by PAPs are followed up and that where necessary, appropriate corrective actions are implemented
- If necessary, changes in the RAP procedure are made to improve delivery entitlements to the RAPs.

#### **4.11.4 RAP Monitoring Framework**

There should be two monitoring framework for the Storm Water Drainage RAP namely internal monitoring by MCM and external/completion monitoring by the donor if need be. Efforts of MCM will be augmented by the RIC and PIU.

PIU will monitor the implementation of the RAP as well as evaluating the impact throughout the resettlement period. This is to enable the resettlers to express their needs and react towards resettlement execution thereby enabling the Company to address outstanding issues.

Generally, the right choice of monitoring indicators by the proponent will guarantee the successful. The proponent will determine the frequency of monitoring and the subsequent reporting to the RIC.

#### **4.11.5 Post Evaluation (Completion Audit)**

If necessary a World Bank consultant will visit the resettlement site at an agreed time with PIU representative and thereafter prepare the completion audit report. Where this is not feasible, the proponent should engage a private consultant to conduct the post evaluation. The terms of reference for the consultant will be to:

- Assess overall compliance with the RAP;
- Verify that measures to restore or enhance PAPs' quality of life and livelihood are being implemented and to estimate their effectiveness; and
- Assess the extent to which the quality of life and livelihoods of the PAPs have been restored.

**Table 4.11.5 Monitoring Indicators**

Subject	Indicator	Variable
Land	Acquisition of land	<ul style="list-style-type: none"> <li>• Area of cultivation land acquired for MCM developments</li> <li>• Area of communal land acquired for MCM developments</li> <li>• Area of private land acquired?</li> <li>• Area of government land acquired?</li> </ul>
Buildings/ Structures	Acquisition of buildings	<ul style="list-style-type: none"> <li>• Number, type and size of private buildings acquired (residential and commercial)</li> <li>• Number, type and size of community buildings acquired</li> <li>• Number, type and size of government buildings acquired</li> </ul>
	Acquisition of other structures	<ul style="list-style-type: none"> <li>• Number, type and size of other private structures acquired</li> <li>• Number, type and size of other community structures acquired</li> </ul>
Trees and Crops	Acquisition of trees	<ul style="list-style-type: none"> <li>• Number and type of trees cut</li> </ul>
	Destruction of crops	<ul style="list-style-type: none"> <li>• Crops destroyed by area, type and ownership</li> </ul>
Compensation, Re-establishment and Rehabilitation	Compensation and re-establishment of affected owners/individuals	<ul style="list-style-type: none"> <li>• Number of homesteads affected (buildings, land, trees, crops)</li> <li>• Number of owners compensated by type of loss</li> <li>• Amount compensated by type and owner</li> <li>• Number of replacement houses constructed</li> <li>• Size, construction, durability and environmental suitability of replacement houses</li> <li>• Possession of latrines</li> <li>• Water supply access</li> <li>• Number of replacement businesses constructed</li> </ul>
	Re-establishment of community resources	<ul style="list-style-type: none"> <li>• Number of community buildings replaced</li> <li>• Number, type of plants lost</li> <li>• Number of seedlings supplied by type</li> <li>• Number of trees planted</li> </ul>
Hazards and Disturbances	Introduction of nuisance factors	<ul style="list-style-type: none"> <li>• Number of homesteads affected by hazards and disturbances from construction (noise levels, blasting, increased traffic levels)</li> </ul>
Social/ Demographic	Changes to homestead structure	<ul style="list-style-type: none"> <li>• Homestead size (births, deaths, migration in and out)</li> <li>• Age distribution</li> <li>• Gender distribution</li> </ul>

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		<ul style="list-style-type: none"> <li>• Marital status</li> <li>• Relationship to homestead head</li> <li>• Status of “vulnerable” homesteads</li> </ul>
	Population migration	<ul style="list-style-type: none"> <li>• Residential status of homestead members</li> <li>• Movement in and out of the homestead (place and residence of homestead members)</li> </ul>
	Changes to access	<ul style="list-style-type: none"> <li>• Distance/travel time to nearest school, health centre, church, shop, village</li> </ul>
	Changes to health status	<ul style="list-style-type: none"> <li>• Nutritional status of resettled homestead members</li> <li>• Number of people with disease, by type (STDs, diarrhoea, malaria, ARI, immunizable disease)</li> <li>• Mortality rates</li> <li>• Access to health care services (distance to nearest facility, cost of services, quality of services)</li> <li>• Utilization of health care services</li> <li>• Disease prevention strategies</li> <li>• Extent of educational programmes</li> <li>• Latrine provision at schools (school child population per VIP on site)</li> </ul>
	Changes to educational status	<ul style="list-style-type: none"> <li>• Literacy and educational attainment of homestead members</li> <li>• School attendance rates (age, gender)</li> <li>• Number, type of educational establishments</li> </ul>
	Changes to status of women	<ul style="list-style-type: none"> <li>• Participation in training programmes</li> <li>• Use of credit facilities</li> <li>• Landholding status</li> <li>• Participation in MCM-related activities and enterprises</li> </ul>
	Homestead earning capacity	<ul style="list-style-type: none"> <li>• Ownership of capital assets</li> <li>• Ownership of equipment and machinery</li> <li>• Landholding size, area cultivated and production volume/value, by crop (cash and subsistence crops)</li> <li>• Landholding status (tenure)</li> <li>• Redistribution of cultivation land</li> <li>• Changes to livestock ownership: pre- and post disturbance</li> <li>• Value of livestock sales, and imputed value of barter transactions</li> <li>• Consumption of own livestock production</li> <li>• Employment status of economically active members</li> <li>• Skills of homestead members</li> </ul>

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		<ul style="list-style-type: none"> <li>• Earnings/income by source, separating compensation payments</li> <li>• Changes to income-earning activities (agriculture) – pre- and post disturbance</li> <li>• Changes to income-earning activities (off-farm) – pre- and post disturbance</li> <li>• Amount and balance of income and expenditure</li> <li>• Possession of consumer durables</li> <li>• Realisation of homestead income restoration plans (components implemented, net income achieved)</li> <li>• Possession of bank and savings accounts</li> <li>• Access to income-generating natural resource base (wood, grass, sand, stones)</li> </ul>
	Changes in social organisation	<ul style="list-style-type: none"> <li>• Organisational membership of homestead members</li> <li>• Leadership positions held by homestead members</li> </ul>
	Population influx	<ul style="list-style-type: none"> <li>• Growth in number and size of settlements, formal and informal</li> <li>• Growth in market areas</li> </ul>
Consultation	Consultation programme operation	<ul style="list-style-type: none"> <li>• Number of local committees established</li> <li>• Number and dates of local committee meetings</li> <li>• Type of issues raised at local committees meetings</li> <li>• Involvement of local committees in MCM development planning</li> <li>• Number of participating NGOs</li> </ul>
	Information dissemination	<ul style="list-style-type: none"> <li>• Number, position, staffing of Information Centres</li> <li>• Staffing, equipment, documentation of Information Centres</li> <li>• Activities of Information Centres</li> <li>• Number of people accessing Information Centres</li> <li>• Information requests, issues raised at Information Centres</li> </ul>
	Grievances resolved	<ul style="list-style-type: none"> <li>• Number of grievances registered, by type</li> <li>• Number of grievances resolved</li> <li>• Number of cases referred to court</li> </ul>
Training	Operation of training programme	<ul style="list-style-type: none"> <li>• Number of local committee members trained</li> <li>• Number of affected population trained in Project-related training courses</li> </ul>
Management	Staffing	<ul style="list-style-type: none"> <li>• Number of implementing agencies by function</li> </ul>

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		<ul style="list-style-type: none"> <li>• Number of GoK ministry officials available by function</li> <li>• Number of office and field equipment, by type</li> </ul>
	Procedures in operation	<ul style="list-style-type: none"> <li>• Census and asset verification/quantification procedures in place</li> <li>• Effectiveness of compensation delivery system</li> <li>• Number of land transfers effected</li> <li>• Co-ordination between local community structures, MCM and GoK officials</li> </ul>



## 6.2 Valuation Process Relevant to RAP

Table 6.2 below outlines valuation process that complies with the Laws of Kenya and the World Bank guidelines.

Table 6.2: Valuation Process Relevant to RAP

Asset	Process
Land with Structures	<p><b>Steps:</b></p> <ol style="list-style-type: none"> <li>A detailed inventory of all persons, possessions, assets and stock requiring resettlement will be made.</li> <li>Accurate and real valuation of dwelling will be undertaken.</li> <li>Determination of compensation packages according to valuations will be carried out.</li> <li>Allow a reasonable time period prior to moving, for salvage of building materials. PAP's may salvage any material without this being deducted from compensation entitlements.</li> <li>Provide temporary housing/shelter if necessary.</li> </ol> <p><b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>Almost the entire stretch of proposed project land has structures</li> <li>MCM will pay compensation for the lost housing and commercial structures.</li> <li>MCM will provide transport for the occupants and their belongings to their new place of residence.</li> <li>The owner will be entitled to remove any materials he or she wishes to salvage within one month of vacating the old dwelling.</li> <li>MCM will provide transport for these materials, other than masonry, to the new residential site.</li> </ol>
Land without structures	<ol style="list-style-type: none"> <li><b>Inventory:</b> As part of the RAP phase the MCM hopes to acquire names and contact details of all persons affected by the project.</li> <li><b>Compensation:</b> The RAP data sheet spells out how each person is affected and indicates how much compensation will be paid for property including crops and trees lost.</li> <li><b>Payment:</b> The storm water drainage requires 6m wayleave throughout the proposed stretch of 14.3km storm water drain totaling to 0.0858km. This required area has different levels of ownership therefore MCM is required by law to compensate the PAPs on Land.</li> </ol>
Lost business profits and	<ol style="list-style-type: none"> <li>Where business profits may be affected compensation will be paid according to Valuation &amp; Audited results of the enterprises monthly income.</li> </ol>

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employee earnings	
Crops/Trees on the fields cultivated by those affected.	<p>a. <b>Tree/seasonal crops:</b> Harvesting of the crops will be given a first priority but where harvesting is not possible, counting of the affected crops will be done by a registered valuer and MCM agent in the presence of the owner. Computation of the costs will be done according to market rates</p> <p>b. <b>Annual crops:</b> Crops will be harvested by the owner and therefore no compensation will be paid for crops. In instances where crops are not able to be harvested, MCM will pay compensation at the market rates.</p>

## Notes

- The RPF of the KMP sub-project has already proposed a compensation schedule as shown on table 6.1 of this report that should be presented to the PAPs for ratification.
- All payments shall be made before demolition commences
- Compensation packages and other resettlement measures should ensure that each category of eligible displaced persons get their fair compensation. In conformity with the World Bank Operational Policy (OP.4.12 of Dec 2001) which states that the displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them to pre-displacement levels or to levels prevailing prior to the start of project implementation whichever is higher.

### (l) Shelter, infrastructure and social services add table 4.1

This sub-section provides details regarding plans to provide or finance housing, infrastructure (e.g. roads, water supply etc) and social services (schools, health services) and plans aimed at ensuring that services and any necessary site development to host communities are comparable to those provided to resettled persons.

#### (o) Costs and Budget

The breakdown of cost estimates for all resettlement activities including allowances for inflation and other contingencies, timetable for expenditures, sources of funds and arrangements for timely disbursement of funds.

#### (q) Commitment to follow RPF guidelines and requirement

A statement of assurance that the implementing agency will follow the guidelines and requirement of the RPF should be included in the RAP

#### (r) Description of programmes for improvement and restoration of livelihoods and standards of living of the affected people.

Programmes aimed at improving and restoring the livelihoods and standards of living of the affected people in line with the Resettlement Policy should be described and the magnitude of their funding should be indicated

## **NOTE**

This RAP report aims to give the client an indication of the project and the status of work progress. The evaluation and conclusion of this draft RAP report is still no going and information gaps including analysis of other Act related to the project will be provided in the next edition while incorporating the clients comments.

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