



Athi Water Works Development Agency (AWWDA)

Kenya Water and Sanitation Services
Improvement Project (WASSIP)

Social Safeguards Audit Report

January 2020

**Prepared by Dr. Dan Adino
Social Safeguards Expert**

Alpex Consulting Africa Ltd (ACAL)
PO Box 20382-00100 Nairobi
TEL: 254 (0) 715 880 880 / 717 535 336/7
EMAIL: info@acal.co.ke

LIST OF ABBREVIATIONS AND ACRONYMS.....	4
LIST OF TABLES.....	5
ANNEXES.....	7
EXECUTIVE SUMMARY.....	8
1.0 RATIONALE OF THE SAFEGUARDS COMPLETION REPORT.....	10
1.1 SCOPE OF THE ASSIGNMENT.....	10
2.0 METHODOLOGY.....	12
2.1 Sampling/selection of subprojects.....	12
2.2 Data Validity.....	13
2.3 Data analysis.....	13
3.0 LEGAL AND REGULATORY FRAMEWORKS.....	14
3.1 Land Tenure System in Kenya.....	15
3.1.1 Customary Land Tenure.....	15
3.1.2 Freehold Tenure.....	15
3.1.3 Leasehold Tenure.....	15
3.1.4 Public Tenure.....	15
3.2 Land Acquisition Process.....	16
4.0 FINDINGS ON SOCIAL SAFEGUARDS PROVISIONS OF PAD.....	27
4.1 Environment and Social Management Framework.....	27
4.1.1 Findings on compliance with the provisions of ESMF.....	29
4.1.2 Resettlement Policy Framework (RPF).....	37
4.1.3 Findings on compliance with the provisions of RPF.....	38
5.0 PRESENTATION OF FINDINGS FROM FIELD ASSESSMENT ON THE IMPLEMENTATION OF RAPS AND SOCIAL ASPECTS OF ESMP.....	46
5.1 Presentation of findings from In-depth interviews.....	47
5.1.1 Socio-demographic characteristics.....	47
5.1.2 Occupation, income and health status.....	47
5.1.3 Stakeholder Engagement.....	48
5.1.4 Census/asset valuation and compensation.....	49
5.1.5 Grievance Redress Mechanism.....	50
5.1.6 Livelihood restoration.....	50
5.1.7 Assistance to vulnerable PAPS.....	51
5.1.8 Social safeguard issues related to the contractors and the local population.....	52
5.2 PRESENTATION OF FINDINGS OF QUALITATIVE DATA.....	53
5.2.1 AWWDA PROJECTS.....	53
5.2.1.1 Murang'a water supply.....	53
5.2.1.2 Northern collector tunnel.....	58
5.2.1.3 Nairobi Bulk Water Supply: Construction of raw and treated water gravity mains.....	65
5.2.1.4 Thika/ Ndakaini Dam to Kigoro Treatment Works Section - 5.40km (Raw Water Pipeline).....	66
5.2.1.5 Kigoro Water Works to Ngethu Junction Pipeline- 12.6km (Treated Water Pipeline).....	66
5.2.1.6 Existing Nairobi Pipelines Ngethu - Gigiri Reservoirs- 36.0km.....	69
5.2.1.7 Gatanga water supply.....	69
5.2.1.8 Mwea Makima.....	72

5.2.2	LNWWDA PROJECTS.....	74
5.2.2.1	Suswa water supply project.....	74
5.2.2.2	Kapcherop Water Supply Project.....	77
5.3	Indigenous Peoples Planning Framework for Kapcherop water supply affecting the Sengwer community.....	80
5.3.1	CWWDA PROJECTS.....	88
5.3.1.1	Extension/construction of Taveta Lumi Water Supply in Taita Taveta County.....	88
5.3.1.2	Rehabilitation of the Mombasa WSP water reticulation Network-Part of Lot 2 90	
5.3.1.3	Extension/construction of Nyalani Water Supply in Kwale County.	92
5.3.1.4	Emergency Immediate Works-Lot 1: Augmentation of the Baricho Well Field and Electromechanical Works.....	94
5.3.1.5	Emergency Immediate Works-Lot 3: Kakuyuni/Gongoni and Kakuyuni/Kilifi Interconnection Pipelines Works.....	97
5.4	Institutional capacity for ESMF implementation.....	99
5.4.1	Findings on technical capacity.....	99
5.4.2	12.0 Monitoring and reviews of ESMF implementation.....	99
5.4.3	Findings on monitoring of RAP implementation.....	99
6.0	ANNEXES.....	100

LIST OF ABBREVIATIONS AND ACRONYMS

ABBREVIATION/ ACRONYM	DESCRIPTION
WWDA	Water Works Development Agencies
CWWDA	Coast Water Works Development Authority
LVNWWDA	Lake Victoria North Water Works Development Authority
FGD	Focus Group Discussion
GRM	Grievance Redress Mechanism
KII	Key Informant Interview
KShs	Kenya Shillings
NLC	National Land Commission
OP	Operational Policy
PAP	Project Affected Person
RAP	Resettlement Action Plan
RAPIC	RAP Implementation Committee
WB	World Bank

LIST OF TABLES

Table 1 Sample Frame.....	11
Table 2 Details of projects visited.....	11
Table 3 Summary of relevant resettlement legal statutes applicable.....	13
Table 4 Comparative Analysis of World Bank OP 4.12 and Government of Kenya requirements including measures to address gaps.....	18
Table 5 Comparative Analysis of World Bank OP 4.12 and Kenya’s requirements Relevant to the Process.....	23
Table 6 Protection measures by the Government for land rights of special groups	24
Table 7 The ESMF screening result for AWWDA.....	28
Table 8 The ESMF screening result for CWWDA.....	31
Table 9 The ESMF screening result for LVNWWDA.....	33
Table 10 The RPF screening result for CWWDA.....	38
Table 11 The RPF screening result for LVNWWDA.....	40
Table 12 The RPF screening result for AWWDA.....	42
Table 13 Socio-demographic characteristics.....	46
Table 14 Stakeholder engagement.....	47
Table 15 Census/asset valuation and compensation.....	48
Table 16 Grievance Redress Mechanism.....	49
Table 17 Livelihood restoration.....	49
Table 18 Assistance to vulnerable PAPS.....	50
Table 19 Social safeguard issues related to the contractors and the local population.....	51
Table 20 Payment status.....	54
Table 21 The sample of payment schedule with details of PAPS compensated.	54
Table 22 List of pending PAPS.....	55
Table 23 Proposed Implementation time table for pending safeguard issues.....	56
Table 24 A sample payment schedule.....	58
Table 25 Summary of compensation.....	59
Table 26 Proposed Implementation time table for pending safeguard issues.....	63
Table 27 Summary of the payment status for the raw water.....	65
Table 28 Summary of compensation.....	66
Table 29 Summary of compensation status.....	66
Table 30 Proposed Implementation timetable for pending safeguard issues.....	67
Table 31 Summary of compensation.....	69
Table 32 Proposed Implementation timetable for pending safeguard issues.....	71
Table 33 Status of compensation.....	72
Table 34 A summary of questions asked during stakeholder meetings.....	74
Table 35 Summary of status of land public land use consent.....	75
Table 36 Summary of RAP cost.....	77
Table 37 A sample of compensation schedule.....	77
Table 38 Project Impacts as expressed by Sengwer and Possible Actions considered in developing an Indigenous Peoples Plan (IPP).....	83

Table 39 Summary of Entitlements per.....	88
Table 40 RAP implementation cost.....	88
Table 41 Summary of compensation status.....	88
Table 42 Budget Estimates for RAP Implementation.....	90
Table 43 Summary of compensation status.....	90
Table 44 Status of compensation.....	92
Table 45 Summary of RAP Implementation Budget.....	94
Table 46 Summary of compensation status.....	94
Table 47 Total entitlements.....	96
Table 48 Summary of compensation status.....	97
Table 49 The number of affected PAHs with businesses.....	97

ANNEXES

Annex 1 Assessment Tools.....	100
Annex 2 List of documents reviewed.....	106
Annex 3 Northern Collector Tunnel Project GRM Log.....	107
Annex 4 List of field Photos.....	111
Annex 5 Registration Forms.....	114

EXECUTIVE SUMMARY

The Ministry of Water and Irrigation (MoWI) commissioned the Water and Sanitation Services Improvement Project (WaSSIP) in December 2007, with the objective of increasing access to water supply and sanitation services within the service areas of three different Water Works Development Agencies (WWDA). The project has three components:

Component 1: Support to the Athi Water Works Development Agency (AWWDA). This component supports the rehabilitation and extension of water supply systems, the development of additional water sources for Nairobi, drought mitigation measures, and improvements in wastewater collection and treatment facilities in the jurisdiction of the (AWWDA). Technical assistance is also being provided to the AWWDA and its Water Services Providers (WSP), the Water Services Regulatory Board (WASREB), and the Water Appeal Board (WAB).

Component 2: Support to the Coast Water Works Development Agency (CWWDA). This component supports the rehabilitation and extension of water supply schemes, drought mitigation measures, and institutional strengthening of the CWWDA and its various water service providers.

Component 3: Support to the Lake Victoria North Water Works Development Agency (LVNWWDA). This component supports the rehabilitation and extension of water supply schemes, drought mitigation measures, and institutional strengthening of the LVNWWDA and its various water service providers.

This Implementation Completion Report (ICR) was prepared for the entire WaSSIP projects which are at different stages of implementation but majority of them have been completed. A combination of methods were used to undertake this assignment, namely review of available documents, In-depth Interviews with Project Affected Persons (PAPs), Key Informant Interviews (KII), site observations and Focus Group Discussions (FDGs) and compliance gap analysis with OP4.12 and National Legislation. The assessment was conducted in two stages. In stage one; all the projects financed under WaSSIP were assessed on general requirements for preparation of safeguards instruments including Environmental Impact Assessments (EIA) and Resettlement Action Plan (RAP). All the 83 sub-projects were screened for compliance and are distributed as follows

- I. AWWDA -30
- II. CWDDA -25
- III. LVNWWDA -28

The second stage involved detailed field assessment where selected projects were assessed for compliance with key safeguards requirement during implementation. The details of the projects visited are provided in the table below.

AWWDA

- I. Northern collector tunnel
- II. Kigoro-Ngethu pipeline
- III. Gatanga water supply project
- IV. Murang'a water supply project
- V. Mwea Makima water project

CWWDA

- I. Extension/construction of Taveta Lumi Water Supply in Taita Taveta County

- II. Emergency Immediate Works-Lot 1: Augmentation of the Baricho Well Field and Electromechanical Works
- III. Emergency Immediate Works-Lot 3: Kakuyuni/Gongoni and Kakuyuni/Kilifi Interconnection Pipelines Works
- IV. Extension/construction of Nyalani Water Supply in Kwale County
- V. Rehabilitation of the Mombasa WSP water reticulation Network-Part of Lot 2

LVNWWDA

- i. Suswa water supply project
- ii. Kapcherop Indigenous people water supply project

One project in LVNWWDA affected the Sengwer Indigenous People (IP) and was screened for compliance with requirements of Indigenous People Planning Framework (IPPF). All the projects were found to have complied with the basic requirements of preparation of various social and environmental safeguards instruments and taking them through the necessary approval and disclosure processes.

The process of land acquisition is on-going in a number of projects. Wayleave registration has commenced in various land registries for PAPs who have signed the consent forms. The PAPs were compensated 75 % of the total cost of land. The balance of 25 % is being paid as the process of wayleave registration is finalized. This scenario is common for projects within AWWDA. Land acquisition for LVNWWDA and CWWDA has been completed. A few Some PAPs disputed the valuation figures offered to them by the WWDA and the cases were submitted to the National Land Commission (NLC) for resolution. There was extensive stakeholder engagement with the PAPs during the RAP preparation processes and at various stages of land acquisition processes. Most of the PAPs indicated that they were very satisfied with the process of information sharing. Analysis of the results of the In-depth interviews with the PAPs indicates that majority of them feel that valuation criteria was not clearly explained to them and the compensation entitlement awarded to them was generally low. Some of the disgruntled PAPs rejected the awards and sought legal redress in courts. Some of the cases are on-going while others have been concluded. PAPs with succession cases have not received full compensation and the process is on-going in various courts. The land acquisition process will be deemed to be complete when succession issues are completed and the rightful owners have the required ownership documents to enable them get compensated. The AWWDA should fast-track the succession processes to avoid delays in compensation. The assessment established that effective grievance redress mechanisms were put in place to deal with grievances from PAPs and other stakeholders. However, preparation and implementation of livelihood restoration plans was found to be missing in all projects. Internal and external monitoring of RAP implementation has not been done and Institutional capacity for RAP implementation has not been strengthened. PAPs reported that the blasting being undertaken by the contractor for the Northern collector tunnel has affected the surrounding buildings. AWWDA is currently conducting investigation on the claims. The RAP reports had all the key requirements including:

- I. Cut-off date
- II. Census and socio-economic survey results
- III. Disclosure of information and consultation with PAPs
- IV. Eligibility criteria for compensation
- V. Assistance to vulnerable PAPs
- VI. Grievance Redress Mechanisms

VII. Entitlement matrix

The remaining aspects of the RAP which requires to be brought to compliance include:

- I. Livelihood restoration plans
- II. Internal and external monitoring of RAP implementation
- III. Institutional capacity building for RAP implementation
- IV. Speedy resolution of valuation disputes by NLC
- V. Conclusion of succession cases
- VI. Conclusion of wayleave registration and payment of balance compensation amount
- VII. Timely payment of compensation
- VIII. Investigation on effects of blasting by the contractor on the surrounding buildings

1.0 RATIONALE OF THE SAFEGUARDS COMPLETION REPORT

The project is scheduled to close on 31st December, 2019. An assessment of the status of implementation and outcomes with regards to social safeguards issues is intended to ascertain the level of compliance of the project with World Bank Operational Policies previously covered under OP 4.10, OP4.01 and OP 4.12, now covered under ESS1, ESS2, ESS4, ESS5 ESS7 and ESS10 in the 2017 Framework. The projects also trigger International Water ways (OP/BP 7.50). The assessment also checked the level of compliance with relevant National legislations. The assignment involved the assessment of the status of implementation of the social aspects of the project Environmental and Social Management Plans (ESMP), and the Resettlement Action Plans (RAP) implemented by each of the three implementing agencies and Project's Indigenous People's Planning Framework (IPPF) as it applies to Component 3. The report has identified effective implementation strategies, constraints during implementation and any remaining non - compliance issue before project closing. In addition, the assessment report has incorporated a review and analysis of complaints and incidents/accidents recorded so far by the various grievance redress mechanisms set up during the life of the project. In order to address these safeguard policy issues and to ensure that implementation of project activities is carried out in an environmentally and socially sustainable manner; the Government of Kenya (GoK) prepared an Environment and Social Management Framework (ESMF), a Resettlement Policy Framework (RPF) and an Indigenous People Planning Framework (IPPF). The completed ESMF, RPF and IPPF were disclosed by the GoK in the country and the World Bank at the Bank's Information Centre in Washington D.C. In order to satisfy requirements for International Waterways (OP/BP 7.50), a notification of the commencement of the project was sent to the parties of the Nile Basin Agreement.

1.1 SCOPE OF THE ASSIGNMENT

The assessment covered the social safeguards aspects associated with the activities and operations of the different implementing agencies i.e. AWWDA, CWWDA and the LVNWWDA. These aspects include:

- I. Resettlement action plans,
- II. Social aspects of environmental and social management plans
- III. Indigenous peoples planning framework (IPPF) in component 3.

Specific tasks included:

1. Evaluation of the implementation and effectiveness of project RAPs (which includes compliance to monetary/in kind compensation, resettlement

assistance and livelihood restoration with special emphasis on 'vulnerable Project Affected Persons (PAPs). The focus was on the following areas:

- a. The extent to which the PAPs have restored their living conditions to the better of pre-project or pre-resettlement levels
- b. Success factors and challenges encountered
- c. Action plan (time bound) on gap filling measures
2. Examine the functionality of the project's grievance redress mechanisms and records of complaints and effective redress with focus on:
 - a. Description of the grievance redress mechanisms in place
 - b. Satisfaction (from the users) on the mechanisms
 - c. Success factors and challenges encountered
 - d. Summary of grievances received, types and time and type of resolution employed
 - e. Identification of unresolved grievances and an action plan on how they will be resolved
3. Review of the WaSSIP indigenous people's planning framework and document how the framework was operationalized in Component 3 with focus on:
 - a. Mitigation of adverse impacts
 - b. Inclusion of IP in project benefits
 - c. Views of the IP on the IPPF
 - d. Consultations and engagements undertaken
 - e. Successes and challenges encountered
 - f. Concerns and gaps identified
 - g. Action plan (time bound)
4. Identify the social aspects of the environment and social management plans related to:
 - a. Community engagement and communication
 - b. Labor issues including labor influx
 - c. Occupational health and safety issues
 - d. Construction related impacts on communities
 - e. Community health and safety issues
 - f. Access to the grievance redress mechanisms
 - g. Communities views on construction works and their impacts on access to resources.
 - h. Action plan (time bound)

Key reference documents reviewed during the assessment include:

- I. The EIA and all baseline studies and information
- II. The projects safeguard instruments (ESMF, RPF, IPPF, RAPs, and ESMPs)
- III. The relevant Bank's operational policies
- IV. Aid memoires
- V. Reports of panel of experts
- VI. RAP audit reports
- VII. RAP implementation status report from the implementing agencies
- VIII. Relevant National legal frameworks
- IX. Project Appraisal Document (PAD)

2.0 METHODOLOGY

Primary data was collected from various sources including the PAPs, project staff and other stakeholders through in-depth interviews, key informant interviews, focus group discussions, and field observations. The assessment was conducted using interview schedules. Stakeholder mapping was conducted to identify key stakeholders to be interviewed during the assessment. Appropriate tools for stakeholder mapping were applied. Secondary data was collected by reviewing project documents.

2.1 SAMPLING/SELECTION OF SUBPROJECTS

The sampling was done in two stages. The first stage involved the screening of all projects financed under WaSSIP on all safeguards requirements including EIA, RAP and IPPF where applicable. All the 83 sub-projects were screened for compliance. The second stage of sampling involved purposive, sampling, to select the sub-projects that were visited during the assessment. This means that only projects fulfilling certain criteria were selected for field visits. Firstly, the selection was based on social risks levels of projects. In this case all high risk investments that have been categorized under Category A were visited. Additionally, the projects which have impacts on indigenous people were also visited during the assessment. The second criterion was based on regional balance. There was a proportionate selection of the subprojects based on the components- Component 1 (AWWDA); Component 2 (CWDDA) and Component (LVNWWDA). The details of the projects visited are provided below.

Table 1 Sample Frame

Components	Number of projects	No of projects screened for compliance to ESMF and RPF requirements as per the PAD	No of projects visited During the assessment
AWWDA	30	30	5
CWDDA	25	25	5
LVNWWDA	28	28	2
	83	83	12

Table 2 Details of projects visited

Component	Sub-projects
AWWDA	<ol style="list-style-type: none"> 1. Northern collector tunnel 2. Kigoro-Ngethu pipeline 3. Gatanga water supply project 4. Murang'a water supply project 5. Mwea Makima water project
CWDDA	<ol style="list-style-type: none"> 1. Extension/construction of Taveta Lumi Water Supply in Taita Taveta County 2. Emergency Immediate Works-Lot 1: Augmentation of the Baricho Well Field and Electromechanical Works 3. Emergency Immediate Works-Lot 3: Kakuyuni/Gongoni and

	<p>Kakuyuni/Kilifi Interconnection Pipelines Works</p> <p>4. Extension/construction of Nyalani Water Supply in Kwale County</p> <p>5. Rehabilitation of the Mombasa WSP water reticulation Network-Part of Lot 2</p>
LVNWWDA	<p>1. Suswa water supply project</p> <p>2. Kapcherop Indigenous people water supply project</p>

2.2 DATA VALIDITY

In order to ensure the validity of the data, the following procedures were undertaken before the commencement of data collection:

- I. The tools for the assessment were pre-tested, standardized and approved by the implementing partners before field work.
- II. Only experienced data collectors (who had participated in similar surveys in the past) were deployed for the field work.
- III. All field personnel were trained before field work to ensure that all personnel have a shared understanding of the tools and what was expected of them in the field
- IV. A variety of data collection techniques were employed to ensure consistency in the information obtained from the study participants

2.3 DATA ANALYSIS

Filed data have been organized collated and categorized accordingly. Quantitative data have been entered into Ms Excel and computed accordingly to establish compliance levels and any other parameters that have been determined. Quantitative data has been presented in tables. Qualitative data has been transcribed and grouped according to the specific themes and presented as prose or direct quotes where necessary.

3.0 LEGAL AND REGULATORY FRAMEWORKS

The chapter sets out the legal operating environment for acquisition of land as anticipated in the implementation of the WaSSIP. The chapter highlights major issues related to Kenyan land legislation with regards to involuntary resettlement. It provides a brief overview of the Kenya land policy, and the Kenya's constitutional provisions related to land use, planning, acquisition, management and tenure, and more specifically the legislations related to land expropriation or acquisition, land valuation and land replacement. The chapter also compares the Kenyan legislation with the World Bank provisions on resettlement, highlighting gaps and making recommendations to fill up gaps.

Table 3 Summary of relevant resettlement legal statutes applicable

Legal Framework	Functional Relationship to Resettlement
Constitution of Kenya 2010	Constitution of Kenya 2010 recognizes individuals' right to acquire and own property provided they are citizens of the country in article 40. However, Article 66 of the same Constitution provides for the State to regulate the manner in which these rights may be curtailed for the benefit of the general public. Article 47 of the Constitution provides for administrative action to override the individual rights but the victim has to be given written reason for the action taken that undermines the right.
The Land Act 2012 Laws of Kenya	It is the substantive law governing land in Kenya and provides legal regime over administration of public and private lands. It also provides for the acquisition of land for public benefit. The government has the powers under this Act to acquire land for projects, which are intended to benefit the general public. The projects requiring resettlement are under the provision of this Act.
Land Registration Act, 2012	The law provides for the registration of absolute proprietorship interests over land (exclusive rights) that has been adjudicated or any other leasehold ownership interest on the land. Such land can be acquired by the state under the Land Act 2012 in the project area.
National Land Commission Act 2012	The act establishes the National Land Commission with the purpose of managing public land and carrying out compulsory acquisition of land for specified public purposes.
The Land Adjudication Act Chapter 95 Laws of Kenya	Provides for ascertainment of interests prior to land registrations under the Land Registration Act 2012 through an adjudication committee that works in liaison with adjudication officers.
The Valuers Act 532	The act establishes valuers' registration board, which has the responsibility of regulating the activities and conduct of registered valuers in

	accordance with the provision of the act.
--	-------------------------------------------

3.1 LAND TENURE SYSTEM IN KENYA

Land tenure in Kenya is classified as public, community or private. Public land consists of government forests (other than those “lawfully held, managed or used by specific communities as community forest, grazing areas or shrines”), government game reserves, water catchment areas, national parks, government animal sanctuaries and specially protected areas. The National Land Commission will manage public land. Community land includes land that is “lawfully held, managed or used by specific communities as community forest, grazing areas or shrines,” and “ancestral lands and lands traditionally occupied by hunter-gatherer communities.” Rights are also held through traditional African systems, and rights that derive from the English system introduced and maintained through laws enacted by colonial and then the national parliament. The former is loosely known as customary tenure bound through traditional rules (customary law). The latter body of law is referred to as statutory tenure, secured and expressed through national law, in various Act of parliament e.g. Land Act 2012, Land Registration Act, 2012, Trust Land Act (cap 288) of the Laws of Kenya).

3.1.1 CUSTOMARY LAND TENURE

This refers to unwritten land ownership practices by certain communities under customary law. Kenya being a diverse country in terms of its ethnic composition has multiple customary tenure systems, which vary mainly due to different agricultural practices, climatic conditions and cultural practices. However most customary tenure systems exhibit a number of similar characteristics as follows: First, individuals or groups by virtue of their membership in some social unit of production or political community have guaranteed rights of access to land and other natural resources. Individuals or families thus claim property rights by virtue of their affiliation to the group.

3.1.2 FREEHOLD TENURE

This tenure confers the greatest interest in land called absolute right of ownership or possession of land for an indefinite period of time, or in perpetuity. The Land Registration Act, 2012, governs freehold land. The Act provides that the registration of a person as the proprietor of the land vests in that person the absolute ownership of that land together with all rights, privileges relating thereto. A freehold title generally has no restriction as to the use and occupation but in practice there are conditional freeholds, which restrict the use for say agricultural or ranching purposes only. Land individualization was demanded by the colonial settlers who required legal guarantee for the private ownership of land without which they were reluctant to invest.

3.1.3 LEASEHOLD TENURE

Leasehold is an interest in land for a definite term of years and may be granted by a freeholder usually subject to the payment of a fee or rent and is subject also to certain conditions which must be observed e.g. relating to developments and usage. Leases are also granted by the government for government land, the local authorities for trust land and by individuals or organizations owning freehold land. The maximum term of government leases granted in Kenya is 99 years for agricultural land and urban plots. There are few cases of 33 years

leases granted by government in respect of urban trust lands. The local authorities have granted leases for 50 and 30 years as appropriate.

3.1.4 PUBLIC TENURE

This is where land owned by the Government for her own purpose and which includes unutilized or un-alienated government land reserved for future use by the Government itself or may be available to the general public for various uses. The land is administered under the Land Act 2012 (LA). These lands were vested in the president and who has, normally exercised this power through the Commissioner of Lands, to allocate or make grants of any estates, interests or rights in or over un-alienated government land.

3.2 LAND ACQUISITION PROCESS

Proof that compulsory possession is for public good

It is very explicit in the Land Act, 2012, Section 107, that whenever the national or county government is satisfied that it may be necessary to acquire some particular land under section 110 of Land Act 2012, the possession of the land must be necessary for public purpose or public interest, such as, in the interests of public defence, public safety, public order, public morality, public health, urban and planning, or the development or utilization of any property in such manner as to promote the public benefit. Irrigation and drainage are explicitly identified as qualifying for land acquisition as public utility and the necessity therefore is such as to afford reasonable justification for the causing of any hardship that may result to any person having right over the property, and so certifies in writing, possession of such land may be taken.

Respective Government agency or cabinet must seek approval of NLC

The respective Cabinet Secretary or Government agency or the County Executive Committee Member must submit a request for acquisition of private land to the NLC to acquire the land on its behalf. The Commission will prescribe a criteria and guidelines to be adhered to by the acquiring authorities in the acquisition of land. It is important to note that if the NLC is constituted prior to conclusion of land acquisition, it could prescribe criteria and guidelines necessitating variations or revisions to the current RAP. Similar, the Commission has powers to reject a request of an acquiring authority, to undertake an acquisition if it establishes that the request does not meet the requirements prescribed.

Inspection of Land to be acquired

NLC may physically ascertain or satisfy itself whether the intended land is suitable for the public purpose, which the applying authority intends to use as specified. If it certifies that indeed the land is required for public purpose, it shall express the satisfaction in writing and serve necessary notices to land owners and or approve the request made by acquiring authority intending to acquire land.

Publication of notice of intention to acquire

Upon approval, NLC shall publish a notice of intention to acquire the land in the *Kenya Gazette and County Gazette*. It will then serve a copy of the notice to every person interested in the land and deposit the same copy to the Registrar

The courts have strictly interpreted this provision, requiring that the notice include the description of the land, indicate the public purpose for which the land

is being acquired and state the name of the acquiring public body. NLC shall ensure that the provisions are included in her notice.

The Land Registrar shall then make entry in the master register on the intention to acquire as the office responsible for survey, at both national and county level, geo-references the land intended for acquisition.

Serve the notice of inquiry

Thirty days after the publication of the Notice of Intention to Acquire, NLC will schedule a hearing for public inquiry. NLC must publish notice of this meeting in the *Kenya Gazette and County gazette 15 days before the inquiry meeting* and serve the notice on every person interested in the land to be acquired. Such notice must instruct owner of land to deliver to the NLC, no later than the date of the inquiry, a written claim for compensation.

Holding of a public hearing

NLC then convenes a public hearing not earlier than 30 days after publication of the Notice of Intention to Acquire. On the date of the hearing, NLC must conduct a full inquiry to determine the number of individuals who have legitimate claims on the land, the land value and the amount of compensation payable to each legitimate claimant. Besides, at the hearing, the Commission shall— make full inquiry into and determine who are the persons interested in the land; and receive written claims of compensation from those interested in the land. For the purposes of an inquiry, the Commission shall have all the powers of the Court to summon and examine witnesses, including the persons interested in the land, to administer oaths and affirmations and to compel the production and delivery to the Commission (NLC) of documents of title to the land.

The public body for whose purposes the land is being acquired, and every person interested in the land, is entitled to be heard, to produce evidence and to call and to question witnesses at an inquiry. It will also provide opportunity to land owners to hear the justification of the public authority in laying claims to acquire the land.

Valuation of the land

Part III of the Land Act 2012, section 113 (2a) states that “the Commission shall determine the value of land with conclusive evidence of (i) the size of land to be acquired; (ii) the value, in the opinion of the Commission, of the land; (iii) the amount of compensation payable, whether the owners of land have or have not appeared at the inquiry.” This can be interpreted that NLC must determine the value of the land accordingly and pay appropriate just compensation in accordance with the principles and formulae that it will develop. Nonetheless, just compensation could also be interpreted as market rate. The final award on the value of the land shall be determined by NLC and shall not be invalidated by reason of discrepancy, which may be found to exist in the area.

Matters to be considered in determining compensation:

The market value of the property, which is determined at the date of the publication of the acquisition notice, must be considered. Determination of the value has to take into consideration the conditions of the title and the regulations that classify the land use e.g. agricultural, residential, commercial or industrial.

Increased market value is disregarded when:

- It is accrued by improvements made within two years before the date of the publication of the acquisition notice, unless it is proved that such

improvement was made in good faith and not in contemplation of the proceedings for compulsory acquisition.

- It is accrued by land use contrary to the law or detrimental to the health of the occupiers of the premises or public health.
- Any damages sustained or likely to be sustained by reason of severing such land from other land owned by the claimant.
- Any damage sustained or likely to be sustained if the acquisition of the land had negative effects on other property owned by the claimant.
- Reasonable expenses, if as a consequence of the acquisition, the claimant was compelled to change his residence or place of business (i.e., compensation for disruption to the claimant's life).
- Any damage from loss of profits over the land occurring between the date of the publication of the acquisition notice and the date the NLC takes possession of the land.

Matters not to be considered in determining compensation:

- The degree of urgency, which has led to the acquisition.
- Any disinclination of the person's interest to part with the land.
- Damages sustained by the claimant, which will not represent a good cause of action.
- Damages, which are likely to be caused to the land after the publication of the acquisition notice or as a consequence of the future, land use.
- Increased land value accrued by its future use.
- Any development at the time of acquisition notice, unless these improvements were necessary for maintaining the land.

Award of compensation

The Land Act does not stipulate that compensation must be in the form of money only. Under the Land Act 2012 section 117, the State can award a grant of land in lieu of money compensation ("land for land"), provided the value of the land awarded does not exceed the value of the money compensation that would have been allowable. The law could be interpreted that any dispossessed person shall be awarded the market value of the land. The new law is silent on relocation support or disturbance allowance support.

Upon the conclusion of the inquiry, and once the NLC has determined the amount of compensation, NLC will prepare and serves a written award of compensation to each legitimate claimant. NLC will publish these awards, which will be considered "final and conclusive evidence" of the area of the land to be acquired, the value of the land and the amount payable as compensation. Land Act, Section 115 further stipulates that an award shall not be invalidated by reason only of a discrepancy between the area specified in the award and the actual area of the land. Compensation cannot include attorney's fees, costs of obtaining advice, and costs incurred in preparing and submitting written claims.

Payment of Compensation

A notice of award and offer of compensation shall be served to each person by the Commission. Section 120 provides that "first offer compensation shall be paid promptly" to all persons interested in land. Section 119 provides a different condition and states that the NLC "as soon as practicable" will pay such compensation. Where such amount is not paid on or before the taking of the land, the NLC must pay interest on the awarded amount at the market rate yearly, calculated from the date the State takes possession until the date of the payment.

In cases of dispute, the Commission may at any time pay the amount of the compensation into a special compensation account held by the Commission, notifying owner of land accordingly. If the amount of any compensation awarded is not paid, the Commission shall on or before the taking of possession of the land, open a special account into which the Commission shall pay interest on the amount awarded at the rate prevailing bank rates from the time of taking possession until the time of payment.

Transfer of Possession and Ownership to the State

Once first offer payment has been awarded, the NLC will serve notice to landowners in the property indicating the date the Government will take possession. Upon taking possession of land, the commission shall ensure payment of just compensation in full. When this has been done, NLC removes the ownership of private land from the register of private ownership and the land is vested in the national or county Government as public land free from any encumbrances.

On the other side also, the Commission has also the power to obtain temporary occupation of land. However, the commission shall as soon as is practicable, before taking possession, pay full and just compensation to all persons interested in the land.

In cases of where there is an urgent necessity for the acquisition of land, and it would be contrary to the public interest for the acquisition to be delayed by following the normal procedures of compulsory acquisition under this Act, the Commission may take possession of uncultivated or pasture or arable land upon the expiration of fifteen days from the date of publication of the notice of intention to acquire.

On the expiration of that time NLC shall, notwithstanding that no award has been made, take possession of that land. If the documents evidencing title to the land acquired have not been previously delivered, the Commission shall, in writing, require the person having possession of the documents of title to deliver them to the Registrar, and thereupon that person shall forthwith deliver the documents to the Registrar.

On receipt of the documents of title, the Registrar shall— cancel the title documents if the whole of the land comprised in the documents has been acquired; if only part of the land comprised in the documents has been acquired, the Registrar shall register the resultant parcels and cause to be issued, to the parties, title documents in respect of the resultant parcels. If the documents are not forthcoming, the Registrar will cause an entry to be made in the register recording the acquisition of the land under this Act.

Opportunity for Appeal

The Kenya Constitution establishes Environment and Land Court. Article 162 of the constitution provides for the creation of specialized courts to handle all matters on land and the environment. Such a court will have the status and powers of a High Court in every respect. Article 159 on the principles of judicial authority, indicates that courts will endeavour to encourage application of alternative dispute resolution mechanisms, including traditional ones, so long as they are consistent with the constitution. Section 20, of the Environment and Land Court Act, 2011 empowers the Environment and Land Court, on its own motion, or on application of the parties to a dispute, to direct the application of

alternative dispute resolution (ADR), including traditional dispute resolution mechanisms.

Any person whose land has been compulsorily acquired may petition the Environment and Land Court for redress with respect to:

- *The determination of such person's right over the land;*
- *The amount offered in compensation; and*
- *The amount offered in compensation for damages for temporary dispossession in the case of the Government's withdrawal of its acquisition of the land.*

Parties will pay fees as determined by Environment and Land Court or the court may choose to waive them completely or in part on grounds of financial hardship.

Table 4 Comparative Analysis of World Bank OP 4.12 and Government of Kenya requirements including measures to address gaps

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
GENERAL REQUIREMENTS			
<p>World Bank OP4.12 has overall policy objectives, requiring that:</p> <ol style="list-style-type: none"> 1. Involuntary resettlement should be avoided wherever possible, or minimized, exploring all alternatives. 2. Resettlement programs should be sustainable, include meaningful consultation with affected parties, and provide benefits to the affected parties. 3. Displaced persons should be assisted in improving livelihoods etc., or at least restoring them to previous levels. 	<ol style="list-style-type: none"> 1. According to Kenyan Legislation, involuntary resettlement may occur as a result of projects implemented in public interest. 2. The Land Act, 2012 Act outlines procedures for sensitizing the affected population to the project and for consultation on implications and grievance procedures. 3. The Land Act 2012 guarantees the right to fair and just compensation in case of relocation. 	<ol style="list-style-type: none"> 1. The Land Act does not stipulate that resettlement should be avoided wherever possible; on the contrary, as long as a project is for public interest, involuntary resettlement is considered to be inevitable. 2. Same as the World Bank 3. Just and fair compensation as outlined in the Land Act 2012 is not clear and can only be determined by NLC, which can be subjective. It does not talk about improving livelihood or restoring them 	<ol style="list-style-type: none"> 1. RAP, ensure that resettlement issues are considered at the design stage of the project in order to avoid/minimize resettlement. 2. Implement World Bank OP 4.12 policy - displaced should be assisted in improving their livelihood to pre-project status.

		to pre-project status.	
--	--	------------------------	--

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
---------	--------------------	------------	-------------------------------

PROCESS REQUIREMENTS

Consultation: Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs	The Land Act outlines procedures for consultation with affected population by the NLC and grievance management procedures.	Same as World Bank	Implement consultation procedures as outlined in both Kenyan legislation and World Bank.
------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------	--------------------	------------------------------------------------------------------------------------------

Grievance: For physical resettlement, appropriate and accessible grievance mechanism will be established.	Land Act 2012 clearly outline the steps and process for grievance redress that includes alternative dispute resolution, re-negotiation with NLC and is backed by the judicial system through Environmental and Land Court	Kenyan legislation meets OP4.12 requirements.	N/A
-----------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------	-----

Eligibility Criteria <i>Defined as:</i> (a) those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country); (b) those who do not have formal legal rights to land at the time the census begins but have a claim to	The Land Act 2012 provides that written and unwritten official or customary land rights are recognized as valid land right. The Law provides that people eligible for compensation are those holding land tenure rights Land Act also recognizes those who have interest or some claim in	Kenya's Land Law defines eligibility as both formal (legal) and informal (customary) owners of expropriated land. However, it does not specifically recognize all users of the land to be compensated. The constitution of Kenya on the	Ensure ALL users (including illegal squatters, labourers, rights of access) of affected lands are included in the census survey or are paid
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
<p>such land or assets—provided that such claims are recognized under the laws of the country or become recognized through a process identified in the resettlement plan (see Annex 10 A, Para. 7(f)); and</p> <p>19 (c) those who have no recognizable legal right or claim to the land they are occupying</p> <p><i>To determine eligibility:</i></p> <p>Carry out resettlement census. Cut-off date for eligibility is the day when the census begins.</p>	<p>the land such pastoralist or who use the land for their livelihood.</p> <p>The constitution recognizes ‘occupants of land even if they do not have titles’ and payment made in good faith to those occupants of land. However, this does not include those who illegally acquired land</p> <p>Land Act 2012 provides for census through NLC inspection and valuation process</p>	<p>other hand recognizes ‘occupants of land’ who do not have title and who the state has an obligation to pay in good faith when compulsory acquisition is made.</p> <p>Same as World Bank</p>	<p>Implement cut-off procedures as outlined in the RPF and Kenyan Law</p>
<p>Measures:</p> <p>Preference should be given to land based resettlement strategies for displaced persons whose livelihoods are land-based.</p> <p>Cash based compensation should only be made where (a) land taken for the project is a small fraction of the affected asset and the residual is economically viable; (b) active markets for lost assets exist and there is sufficient</p>	<p>Legislation provides for land for land compensation but the Land Act 2012 does not state whether preference should be granted to land to land compensation.</p> <p>Land Act 2012 appears to prefer mode of compensation by the Government to the affected population.</p>	<p>Land for Land provided for in the Land Act based on agreement by the PAP.</p> <p>Cash based compensation seems to be the preferred mode of awarding compensation to the affected population by Government of Kenya</p> <p>‘Just compensation’ as</p>	<p>Ensure that all alternative options are considered before providing cash compensation</p> <p>Use World Bank OP4.12 procedures in determining form of compensation</p> <p>Implement prompt and effective compensation at full</p>

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
<p>supply of land and housing; or (c) livelihoods are not land-based.</p> <p>World Bank OP4.12 Article 6(a) requires that displaced persons are provided with prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project. If physical relocation is an impact, displaced persons must be provided with assistance during relocation and residential housing, housing sites and/or agricultural sites to at least equivalent standards as the previous site. Replacement cost does not take depreciation into account. In terms of valuing assets, if the residual of the asset being taken is not economically viable, compensation and assistance must be provided as if the entire asset had been taken.</p> <p>Compensation and other assistance required for relocation should be determined prior to displacement,</p>	<p>Land Act talks of prompt, just compensation before the acquisition of land. However, interpretation of just compensation is yet to be clearly outlined through a specific schedule defining just compensation has not been put in place.</p> <p>Attorney's fees, cost of obtaining advice or cost incurred in preparing and making written claim not in the Land Act other than 'just compensation'</p> <p>The Act is does not out rightly stipulate assistance for relocation but we can interpret that relocation cost will be included in just compensation.</p>	<p>stipulated in the Land Act not yet specifically defined.</p> <p>OP 4.12 provides related land transaction fees. Land Act not clear on this.</p> <p>OP4.12 requires that displacement must not occur before all necessary measures for resettlement are in place, i.e., measures over and above simple compensation</p>	<p>replacement cost for the losses of the assets.</p> <p>Implement World Bank policy.</p> <p>Ensure that ALL resettlement options are agreed on with PAPs and put in place BEFORE displacement of affected persons.</p>

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
and preparation and provision of resettlement sites with adequate facilities, where required			
<p>Valuation: With regard to land and structures, "replacement cost" is defined as follows:</p> <p>For agricultural land, it is 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 cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes.</p> <p>For houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting</p>	<p>Valuation is covered by the Land Act 2012 and stipulates, as already mentioned, that the affected person receive just compensation from NLC, as determined by National Land Commission. Valuers Act stipulates that a residual amount of 0.5% of the total valuation of an asset is expected to pay the valuer. Land Act 2012 talks of just compensation for the lost assets but it is not specific of the exact amount or procedures on the same.</p> <p>The Land Act 2012 stipulates just compensation.</p>	<p>Though one could argue that there is some form of consistency between the Kenyan Law and World Bank OP.4.12, interpretation of 'just compensation' has not been defined.</p> <p>Interpretation of just compensation not clear</p> <p>Interpretation of just compensation not clear.</p>	<p>Apply the World Bank OP4.12 valuation measures, as outlined in Section 6, in order to fully value all affected assets in a consistent manner.</p> <p>Apply World Bank OP4.12 on valuation and compensation measures.</p> <p>Apply World Bank OP4.12 on valuation and compensation procedures.</p>

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
building materials to the construction site, plus the cost of any labour and contractors' fees, plus the cost of any registration and transfer taxes.			
Monitor Adequate monitoring and evaluation of activities to be undertaken.	According to Land Act can be undertaken County Land Boards.	Both Kenyan Law and World Bank policy advocates for Monitoring and Evaluation	Implement as prescribed in the World Bank OP4.12 and Kenyan Law.

Table 5 Comparative Analysis of World Bank OP 4.12 and Kenya's requirements Relevant to the Process

Category of PAPs and Type of Lost Assets	Kenyan Law	World Bank OP4.12
Land Owners	Fair and just compensation which could be in form of cash compensation or Land for Land	Recommends land-for-land compensation. Other compensation is at replacement cost
Land Tenants	Constitution says that 'occupants of land' entitled to some level of pay in good faith. Land Act stipulates that they are entitled to some compensation based on the amount of rights they hold upon land under relevant laws. However, those who acquired land illegally not entitled to any.	PAPs are entitled to some form of compensation whatever the legal/illegal recognition of their occupancy.
Land Users	Land Act not clear on Land Users although in some	Entitled to compensation for crops and investments made on

	cases they can receive some form of compensation depending on the determination by NLC	the land; livelihood must be restored to at least pre-project levels.
Owners of Temporary Buildings	The constitution of Kenya respects the right to private property and in case of compulsory acquisition, just compensation must be granted to the owner for the loss temporary buildings.	Entitled to in-kind compensation or cash compensation at full replacement cost including labour and relocation expenses, prior to displacement.
Owners of Permanent buildings	The constitution of Kenya respects the right to private property and in case of compulsory acquisition, just compensation must be granted to the owner for the permanent building	Entitled to in-kind compensation or cash compensation at full replacement cost including labour and relocation expenses, prior to displacement.
Perennial Crops	Compensation for the loss of crops	As per specifications of this RPF, once approved by the Bank and disclosed at the Bank info shop,
Casual Labourers	Not specific on livelihood. The constitution says some pay maybe made in good faith	Compensation and Livelihood restoration to pre-displacement level.

Table 6 Protection measures by the Government for land rights of special groups

	Vulnerable Individuals/ Groups	Women	Spouses (for matrimonial property)
1	Development of mechanisms for identifying, monitoring and assessing the vulnerable groups	Enactment of appropriate legislation that ensures the effective protection of women's right to land and related resources	Review laws related to succession and matrimonial property to ensure that the principle of equality between women and men is conformed to
2	Establishment of mechanisms for the redistribution of land and resettlement	Repeal of existing laws and regulations, as well as customs and practices that discriminate against women's right to land	Enact laws on co-ownership of matrimonial property that protect the rights of widows, widowers and divorcees
3	Facilitation of the participation of vulnerable individuals/ groups in decision making over	Enforcement of existing laws and the establishment of a clear legislative framework that	Establish appropriate legal measures that entitle men and women to equal rights to land and land-based resources during marriage,

	Vulnerable Individuals/ Groups	Women	Spouses (for matrimonial property)
	land and land-based resources	protects the rights of women in issues of inheritance to land and land-based resources	upon dissolution of marriage, and after the death of a spouse
4	Protection of the land rights of vulnerable individuals/ groups from unjust and illegal expropriation	Provide for joint spousal registration and documentation of land rights, as well as joint spousal consent, which is applicable to all forms of land tenure	Establish mechanisms to curb the selling and mortgaging of family land without the involvement of spouses
5		Secure the inheritance rights of unmarried daughters	
6		Facilitate public awareness campaigns to promote the writing of wills that protect dependents in the event of death	
7		Encourage the abandonment of cultural practices that hinder women from inheriting family land	
8		Ensure the proportionate representation of women in institutions dealing with land	

4.0 FINDINGS ON SOCIAL SAFEGUARDS PROVISIONS OF PAD

The EMSF and RPF which was part of the approved PAD required the Boards to categorize the sub-projects and conduct appropriate environment actions ranging from preparation of EIA and RAPs as well as undertaking environmental audits and screening. The PAD also required all projects in category A and B to obtain NEMA license. All these documents were supposed to be submitted to the World Bank for approval and be disclosed appropriately. The key areas captured during the screening for compliance with preparation of relevant social safeguard documents for all the sub-projects include:

- I. Category of project
- II. Date of World Bank approval of RAP/EIA \Screening
- III. Availability of NEMA license
- IV. Date of disclosure
- V. EMSF
- VI. RPF

4.1 ENVIRONMENT AND SOCIAL MANAGEMENT FRAMEWORK

The ESMF was prepared by the Recipient consultant and reviewed and approved by the World Bank and the Government and disclosed in-country and at the World Bank's Info shop. The purpose of the ESMF was to provide a strategic guide for the integration of environmental and social considerations in the planning and implementation of the project activities. The ESMF required Athi Water Works Development Agency (AWWDA), Cost Water Works Development Agency (CWWDA) and Lake Victoria North Water Works Development Agency (LVNWWDA) to identify, assess and mitigate potential negative environmental and social impacts of sub-projects, and to ensure that proper mitigation and possibly the preparation of appropriately costed Environmental Impact Assessments (EIA) and mitigation and management plans as well as Resettlement Action Plans (RAPs) where necessary. The ESMF presents guidelines and procedures consistent with the Environmental Management and Coordination Act of Kenya and the World Bank's safeguard policy on Environmental Assessment (OP/BP 4.01). The ESMF prepared for this project outlined an environmental and social screening process for sub-projects which enabled the WWDAs, their Water Service Providers (WSPs), local communities and other key stakeholders to simultaneously identify potential environmental and social impacts of sub-projects and to address them through the incorporation of the relevant mitigation and management measures. To effectively ensure the minimization or elimination of negative impacts, the ESMF encouraged the inclusion of mitigation actions at the design of sub-projects prior to implementation. According to the National Environmental Management and Coordination Act of 1999, the World Bank's safeguard policy OP\BP 4.01 and Kenya's EIA Guidelines, the Water and Sanitation Improvement Project falls under the list of projects for which environmental impact assessment is mandatory, prior to implementation. The basis is that the proposed sub-projects constituted several components of activities, which generated changes and impacts to both the physical and social environment. The projects were categorized according to the environmental assessment operational policy; and therefore, the appropriate environmental work was to be carried out for category A-projects while the scope of EIA for category-B varied from one sub-project to another. Although the program activities varied in size, location, scope and the

approach in implementation, most of these activities involved civil engineering and construction works which had varying environmental impacts. ESMF recommended that as sub-project proposals were finalized, the complete proposal was required to include the environmental category of the sub-project. For category A and B sub-projects requiring an EIA, the proposal was required to include the EIA report and proof of its approval by NEMA and the World Bank and any interested development partner or financing agency, for less contentious category B projects that did not require the preparation of a separate EIA, the completed environmental and social checklist was required to be attached to the sub-project proposal. The ESMF provided guidelines for the initial screening of the proposed project sites for negative environmental and social impacts, which required attention prior to project implementation and outlined a number of strategies in undertaking the screening including:

- I. An outline of a comprehensive checklist for the potential environmental and social systematic procedures for participatory screening processes for project sites and project
- II. A step-by-step procedure for forecasting the main potential environmental and social impacts
- III. A typical EMP for addressing negative externalities in the course of project
- IV. A monitoring system for implementation of mitigation measures; and an outline of recommended capacity-building measures for environmental planning impacts and their sources
- V. Activities for environmental and social considerations
- VI. Impacts of the planned project activities implementation and operations within the environment
- VII. Management and monitoring of the project activities

The framework recommended that in order for the implementation of the ESMF to be successful, there was need to ensure that other sub-projects being implemented in the same areas as the WASSIP have their own comprehensive environmental and social management plans. It also recommended that the National Environment Management Council and sector ministries and agencies should ensure that human activities that lead to environmental and social problems are properly managed and monitored. The framework also suggested that for successful implementation of this ESMF, involvement and participation of local communities was paramount. Specifically, the framework recommended:

- I. Using the screening process of both the ESMF and RPF prior to any project activity
- II. Environmental and social awareness and education for the key stakeholders and affected communities
- III. Training the local community structures to implement the ESMF and the screening process
- IV. Regularly updating the ESMF to respond to changing local conditions
- V. Building capacities for developing appropriate information management systems to support the environmental and social management process
- VI. Providing the necessary resources and equipment for the WWDA and other players to be able to produce the necessary documentation and forms for the implementation of the ESMF
- VII. Empowering the newly created Environment Units in the Three WWDA and their environmental officers to adequately administer the ESMF.

The ESMF was meant to be used by:

- I. Funding agencies/donors
- II. District Environmental Management Officers and Committees
- III. Indigenous Peoples Organizations
- IV. Participating sectors in the implementation of the project
- V. Politicians and local traditional leaders;
- VI. Senior central government officials responsible for policymaking and project planning;
- VII. Central government officials responsible for environmental planning and management;
- VIII. NGOs and the private sector involved in the selected sub-counties
- IX. Planners and engineers for preparation of plans and designs of the project activities
- X. Engineers and contractors involved in implementation of the project activities.

ESMF also recommended that annual reviews be undertaken after implementation of the recommended actions. It was expected that each review would require three to four weeks of field work (interviews, examination of subprojects), and that the review report would be completed within two weeks of completing the fieldwork. The reviews process was to be funded by the three WWDA.

4.1.1 FINDINGS ON COMPLIANCE WITH THE PROVISIONS OF ESMF

The WWDA were requested to provide information with regard to the key requirements of the ESMF. The information was sought on the status of EIA and the date of approval and disclosure. The WWDA were also asked to provide proof of whether they had obtained National Environment Management Authority (NEMA) licenses for the various projects. This assessment established that most of the sub-projects met the requirements of the ESMF. The results of the analysis conducted to establish the level of compliance for the three WWDA are presented in the tables below.

Table 7 the ESMF screening result for AWWDA

S/ NO	Sub-project description	Category*	Date of Approval		status of disclosure
		(A, B or C)	WB	NEMA	
1	Bulk Water Supply to Nairobi: Construction of Northern Collector Tunnel Phase 1	A	EIA Reports for NCT1 were approved by WB on 27/1/2015	NEMA issued a licence on 9/2/2015	4/6/2015
2	Nairobi Bulk Water Supply: Construction of Raw and Treated Water Gravity Main (Thika Dam-Kigoro-WTP-Kabete Tanks)	A	7/3/2017	NEMA issued a licence on 20/01/2016	5/9/2017
3	High Level water treatment Works at	A	5/9/2016	NEMA issued a	31/3/2017

	Kigoro			licence on 11/11/2015	
4	Development of 4 deep (600m) and 4 shallow (250m) Exploratory/pilot Wells at Ruiru and Kiunyu	B	EIAs cleared on 06-7-2016	N/A	18/7/2016
5	Construction of Independent Community Water Supply along the Northern Collector Tunnel Phase 1 to Thika Dam -Muranga W/S	B	EIA Report cleared by WB on 09/07/2015	Licence issued by NEMA on 22 May 2014	23/7/2015
6	Improvement of Sanitation in Informal Settlements in Nairobi: Matopeni/Spring Valley Sewerage Works-Lot 3	B	EIA cleared on 4-12-2013	Licence issued in July 2012	22/10/2015
7	Improvement of Sanitation in Informal Settlements in Nairobi: Embakasi Riverbank Sewerage Works-Lot 4B	B	EIA cleared on 4-12-2013	Licence issued in July 2012	22/10/2015
8	Improvement of Sanitation in Informal Settlements in Nairobi: Huruma 3 villages (Ghetto, Mahiira & Redeemed) Sewerage Works-Lot 5A	B	EIA cleared on 4-12-2013	Licence issued in July 2012	22/10/2015
9	Construction of Kiambu Water Supply Works	B	EIA cleared on 30-6-2015	NEMA issued a licence on 22/10/2015	22/10/2015
10	Construction of Community water supply downstream of Thika Dam (Gatanga Water Supply)	B	EIA Report cleared by WB on 4/4/2015	NEMA issued a licence on 5/3/2015	23/6/2015
11	Construction of 5000m ³ Concrete Water Tank and Improvement of Ruiru Treatment Plant	C	Cleared but date not provided	27/5/2015	Disclosed but date not provided

12	Extension of water distribution network for Githunguri WSP Area	B	5/9/2016	Environment Licence issued on 19/4/2016	31/3/2017
13	Development of Kikuyu Springs Water Sources for Kikuyu Town	B	EIA cleared on 06-7-2016	Environment Licence July 2013	18/7/2016
14	Renovation and Construction of 5 Water Appeal Board's Offices/courts (Embu, Kisumu, Kitui and Kakamega)	B	21/9/2017	Embu-20/9/2018 Kisumu-10/12/18 Kitui-21/6/2017 Kakamega - 5/7/2017	21/9/2017
15	Drilling and Equipping of 7 Boreholes within Athi WSB area (Phase 1)	B	30/8/2017	Environment Licences Received	9/8/2017
16	Drilling and Equipping of 14 Boreholes within Athi WSB area (Phase 2)	B	30/8/2017	environmental licenses received	18/9/2017
17	Drilling and Equipping 5 Boreholes within Tana WSB area	B	12/7/2017	Environment Licences Received	13/7/17
18	Drilling and Equipping of Boreholes 20 within Tanathi Water Services Board- Lot 1: Kajiado, Lot 2: Kitui, Lot 3: Machakos and Makueni	B	Lot 1: EIA cleared on 30-4-2015	Environment Licences Received	18/7/2016
			Lot 2: EIA cleared on 30-4-2015		
			Lot 3: cleared on 7/8/2017		8/10/2017
19	Rehabilitation and Expansion of Wote Water supply in Tanathi WSB Area	B	20/9/2017	NEMA issued a licence on 15/03/2016	31/3/2017
20	Rehabilitation and Expansion of Mwala Water Supply in Tanathi WSB Area	B	27/8/2016	EIA Report submitted to NEMA on 17/3/2016	21/9/2017

21	Rehabilitation of Amboseli Pastoralist Water Supply in Tanathi WSB Area	B	EIA cleared on 04/07/2016	Environment Licence issued on 19/04/2016	31/3/2017
22	Construction of Mwea-Makima Water Supply in Tana WSB Area	B	EIA approved on 16-4-2015	Environment Licence January 2015	23/6/2015
23	Installation of water tanks, construction of tank-base and guttering for rainwater harvesting in AWWDA area	C	Report was cleared on 04/07/2016	N/A	18/7/2016
24	Installation of water tanks, construction of tank-base and guttering for rainwater harvesting in Tanathi WSB area	C	Report was cleared on 04/07/2016	N/A	18/7/2016
25	Installation of water tanks, construction of tank-base and guttering for rainwater harvesting in Tana WSB area	C	Report was cleared on 04/07/2016	N/A	18/7/2016
26	Construction of AWWDA and NCWSC Operations Building	B	1/2/2018	20/4/2018	14/2/2018
27	Augmentation of Tigoni Water Supply	B	5/9/2016	NEMA licence received on 22/04/2016	31/3/2017
28	Independent Water Supply along NCT (Gatango Water Supply)	B	21/7/2017	7/1/2017	8/3/2017
29	Ichichi, Kiruri and Makomboki Community Water Supply in Murang'a County	B	5/12/17	21/7/2017	26/1/2018
30	Ruiru Sewerage Network Improvement	B	19/7/2017	10/3/2016	8/3/2017

Table 8 The ESMF screening result for CWWDA

	Sub-projects	Category*	Approval date		disclosure date
		(A, B or C)	WB	NEMA	
1	Emergency Immediate Works-Lot 1: Augmentation of the Baricho Wellfield & Electromechanical Works	B	EIA cleared on 19th June 2017	Licensed 20th July 2017	28th June 2017
2	Emergency Immediate Works-Lot 3: Kakuyuni/Gongoni & Kakuyuni/Kilifi Interconnection Pipelines Works	B	EIA cleared on 27th June 2017	License issued on 27th January 2017	28th June 2017
3	Construction of Korondile Water Supply	B	EIA cleared on 25th Jan 2018	Licensed on 18th Oct 2017	29th Jan 2018
4	Construction of Kor Water Supply	B	EIA cleared on 25th Jan 2018	Licensed on 18th Oct 2017	29th Jan 2018
5	Rehabilitation of Kinna Water Supply	B	EIA cleared on 25th Jan 2018	Licensed on 18th Oct 2017	29th Jan 2018
6	Rehabilitation of the Bulk Water Pipeline System	C	Feb-12	25th May 2011	Mzima , Tiwi, Kwale 25th March 2012
7	Extension/Construction of Water Supply pipelines: Lot 1 Nyalani Water Supply for Kwale County	B	EIA cleared on 7th Sept 2016	License received on 6th Oct 2016	22nd Oct 2016
8	Extension/Construction of Water Supply pipelines: Lot 2 Expansion of Taveta Lumi Water Supply for Taita Taveta County	B	EIA approved on 22-06-2016	License received on 05 Oct 2016	15-08-2016

9	Rehabilitation of the Mombasa WSP Water Reticulation Network-Part of Lot 2	B	EIA Report cleared 25th April 2015	License issued for Lot 1 & 2 on 7th Dec 2012	Aug-15
10	Construction of Surface Modular Pressed Steel Water Tanks for CWWDA	C	Cleared but date not provided	License issued but date not provided	Disclosed but date not provided
11	Rehabilitation/ Extension of Bura Water Supply in Tana River County	B	Cleared on 31st Aug 2017	License received on 5th May 2017	13th Sept 2017
12	Extension/ Construction of Water Supply pipelines in Masalanii in NWSB	B	Cleared but date not provided	License issued but date not provided	Disclosed but date not provided
13	Extension/ Construction of Water Supply pipelines in Moyale in NWSB	B	Cleared but date not provided	License received on 14 th Nov 2016	Disclosed but date not provided
14	Extension/ Construction of Water Supply pipelines in Rumuruti in NWSB	B	Cleared but date not provided	License issued but date not provided	Disclosed but date not provided
15	Construction of Water Supplies in Drought Areas Lot 1: Equipping of Existing Boreholes for CWWDA Region	C	N/A	N/A	N/A
16	Construction of Water supplies in Drought Areas Lo2 - Development of water sources & Equipping with submersible pump sets, solar panels, Gensets in CWWDA Region	B	N/A	N/A	N/A
17	Construction of Water Supplies in Drought Areas Lot 3: Construction of Elevated Tanks at Existing Borehole	C	N/A	N/A	N/A

	Locations in CWWDA Area				
18	Construction of Water Supplies in Drought Areas Lot 4: Development of Borehole Water Sources & Equipping with Submersible Pump sets ,Solar Panels & Gensets at Ten(10) Sites in NWSB Region	C	N/A	N/A	N/A
19	Extending services to informal settlements- Mombasa Works-Lot 1 (Ziwa La Ng'ombe & VoK)	B	EIA cleared on 28th Oct 2014	License issued 18th on Aug 2016	Disclosed but date not provided
20	Extending services to informal settlements- Mombasa Works-Lot 2 (Kisumu Ndogo, Maweni, Matopeni & Shauri Yako)	B	EIA cleared on 28th Oct 2014	License issued 18th on Aug 2016	Disclosed but dates not provided
21	Extending services to informal settlements - Kisumu Ndogo Malindi works	B	EIA cleared on 28th Oct 2014	License Issued on 24-Aug-16	Disclosed but date not provided
22	Rehabilitation & Partitioning of Bulk Water Company offices	C	N/A	N/A	N/A
23	Installation of Plastics Tanks & gutters and Fittings at Various Sites in CWWDA	C	N/A	N/A	N/A
24	Installation of Plastics Tanks & gutters and Fittings at Various Sites in Wajir, Garissa & Mandera Counties in NWSB	C	N/A	N/A	N/A
25	Installation of Plastics Tanks & gutters and Fittings	C	N/A	N/A	N/A

at Various Sites Marsabit, Isiolo Counties in NWSB				
----------------------------------------------------------	--	--	--	--

Table 9 The ESMF screening result for LVNWWDA

S/ N o.	Sub-Project Description	Category*	Approval Date		Status of disclosure
			WB	NEMA	
1	Construction of Ellegrini/Kapsoya Water Supply Project	B	No Objection for final EIA from WB received on 24-02-2016	EIA License issued by NEMA on 12-5-2016	Disclosed but date not provided
2	Construction of Water and Sanitation facilities for Informal Settlements in Mumias	C		EIA License issued by NEMA on 20-12-2011	Disclosed but date not provided
3	Construction of Upstream Water Treatment Works and Distribution Lines, (Additional investment in Kapcherop)	C	No Objection for final EIA received from WB on 24th April, 2015.	EIA License issued by NEMA on 14th May, 2015	Disclosed but date not provide
4	Drilling and capping of 17 No. Drought Boreholes LNWWDA	C	No Objection for final EIA report received from WB on 24th April, 2015	EIA Licenses issued by NEMA for all the 17 boreholes but date not provided	Disclosed but date not provided

5	Drilling and capping of Drought Boreholes RVWSB	C	No Objection for final EIA received from WB on 16th June, 2015.	Licence Issued by NEMA for boreholes in Baringo County on 12th May, 2015.	Disclosed but date not provided
6	Drilling and capping of Drought Boreholes LVSWSB	C	No Objection for final EA received from WB on 24th April, 2015.	EA Audit/Report approved by NEMA but date not provided .	Disclosed but date not provided
7	Drilling and capping of Drought Boreholes LVSWSB (Re-Tendered Works after Contract Termination).	C	No Objection for final EA received from WB on 24th April, 2015.	EA Audit/Report approved by NEMA but date not provided	Disclosed but date not provided
8	Equipping of Drought Boreholes and Civil Works LNWWDA -Lot 1- Elegeyo Marakwet County	C	No Objection for final EIA received from WB on 14th March, 2017	EA Audit/Report sent to NEMA. NEMA License received on 18th November 2016.	Disclosed but date not provided
9	Equipping of Drought Boreholes and Civil Works LNWWDA -Lot II - Nandi & Trans Nzoia Counties	C	No Objection for final EIA received from WB on 14th March, 2017	EA Audit/Report sent to NEMA. NEMA License received for Namboboto and Agenga on 18th November 2016.	Disclosed but date not provided
1	Equipping of	C	No	EA Audit/Report	Disclosed but

0	Drought Boreholes and Civil Works LNWWDA -Lot III - Busia & Kakamega		Objection for final EA received from WB on 25th January, 2017.	sent to NEMA. NEMA License received for Namboboto and Agenga on 18th November 2016.	date provided	not
11	Equipping of Drought Boreholes and Civil Works LNWWDA -Lot IV - Bungoma County	C	NO Objection for final EA received from WB on 25th January, 2017	EA Audit/Report sent to NEMA. NEMA License received but date note provided	Disclosed date provided	but not
12	Equipping of Drought Boreholes and Civil Works RVWSB- Lot I- Turkana County	C		EA Audit/Report approved by NEMA but date not provided	Disclosed date provided	but not
13	Equipping of Drought Boreholes and Civil Works RVWSB- Lot II- West Pokot County	C	No Objection for final EA report received from WB on date - 14th March, 2017	EA Audit/Report approved by NEMA but date not provided	Disclosed date provided	but not
14	Equipping of Drought Boreholes and Civil Works RVWSB-Lot III- Baringo County	C	No Objection for final EA report received from WB on date - 14th March, 2017	EA Audit/Report approved by NEMA but date not provided	Disclosed date provided	but not
15	Equipping of Drought Boreholes and Civil Works	C	No Objection for	EA Audit/Report approved by NEMA but date	Disclosed date provided	but not

	RVWSB-Lot IV-Narok County		final EA report received from WB on date - 14th March, 2017	not provided	
16	Equipping of Drought Boreholes and Civil Works LVSWSB -Lot I- Kisumu & Siaya (Palpal, Milambo and Kandege)	C	No Objection for EA granted on 15th May 2017	EA Audit/Report approved by NEMA but date not provided	Disclosed but date not provided
17	Equipping of Drought Boreholes and Civil Works LVSWSB -Lot II - Homabay & Migori (Obilo & Gunga)	C	No Objection EA granted on 15th May 2017	EA Audit/Report approved by NEMA but date not provided	Disclosed but date not provided
18	Equipping of Drought Boreholes and Civil Works LVSWSB -Lot III - Homabay & Migori Counties (Kangeso & Nyamila)	C	No Objection for EA granted on 15th May 2017	EA Audit/Report approved by NEMA but date not provided	Disclosed but date not provided
19	Equipping of Drought Boreholes and Civil Works LVSWSB IV - Kisumu & Siaya Counties. (Reru and Kamrembo)	C	No Objection final EA received from WB on 14th March, 2017. EA Audit report submitted to the WB on 19th April 2017 and No Objection	EA Audit/Report approved by NEMA but date not provided	Disclosed but date not provided

			granted on 15th May 2017		
20	Rehabilitation/Expansion of Water Supplies for LNWWDA - Kwanza Water Supply	C	No objection for EA received on 18th July 2017 from World Bank	EIA License No. 0029327 issued by NEMA on 7th June, 2016	Disclosed but date not provided
21	Rehabilitation/Expansion of Water Supplies for RVWSB-Suswa Water Supply	C	World Bank approved EIA report on 23rd July 2017	EIA License No. NEMA/EIA//PSL/3140 issued by NEMA on 5th May, 2016	Disclosed but date not provided
22	Rehabilitation/Expansion of Water Supplies for RVWSB-Kapenguria Water Supply	C	No objection received from World Bank	EIA License No. 0030698 issued by NEMA on 15th April, 2016	Disclosed but date not provided
23	Rehabilitation/Expansion of Water Supplies for RVWSB-Kapindaram	C	No objection on final EA Audit Report received from WB 25th January 2017	EIA License No. 0030480 issued by NEMA on 12th April, 2016	Disclosed but date not provided
24	Construction of plinths/gutters for plastic water tanks 10,000lts for LNWWDA	C	Screening Report approved by WB as category C on 24th April, 2015.	No action required	N/A

			No objection from WB 26th February 2015		
25	Construction of plinths/gutters for plastic water tanks 10,000lts for RVWSB in Turkana	C	No objection from WB on 24th April 2015	No action required	N/A
26	Construction of plinths/gutters for plastic water tanks 10,000lts for RVWSB in West Pokot	C	No objection from WB received	No action required	N/A
27	Construction of plinths/gutters for plastic water tanks 10,000lts for RVWSB in Baringo	C	No objection from WB received	No action required	N/A
28	Construction of plinths/gutters for plastic water tanks 10,000lts for LVSWSB	C	No objection from WB received	No action required	N/A

4.1.2 RESETTLEMENT POLICY FRAMEWORK (RPF)

In accordance with World Bank's social safeguard policy on Involuntary Resettlement (OP/BP 4.12), which was triggered by WaSSIP, the GOK was required to prepare a social safeguards instrument. Since the sub-projects were not determined in advance, the appropriate instrument was the RPF, which was to be employed in conjunction with the ESMF to ensure that social impacts due to sub-project activities are appropriately addressed. The RPF document outlined the principles and procedures to be followed in the implementation of sub-projects which leads to land acquisition, impact on assets, and/or the loss of livelihoods. The three WSBs as the implementing agencies were required to prepare Resettlement Action Plans for any of the planned sub-projects where the results of environmental and social screening indicated that land acquisition will have impacts on assets or loss in economic activity or livelihood. The RAP was to be prepared in line with the principles and procedures for compensation as outlined in the RPF. The RPF establishes the Resettlement and Compensation principles, organizational arrangements and design criteria to be applied to meet the needs of the people and communities who are affected by the project activities.

The constitution of Kenya 2010 provides for the creation of National Land Commission to spearhead land acquisition processes for public infrastructure projects. The National Land Commission Act 2012 establishes the Commission. The RFP and RAPs were to be prepared on the basis of the World Bank policy on Involuntary Resettlement (OPBP 4.12) and the constitution of Kenya 2010. The Constitution of Kenya 2010 only applies to projects which were implemented after the promulgation of the new constitution in 2010. The RFP required that RAPs be prepared in consistent with RPF when specific planning information becomes available and the land areas for the sub-projects are established. All RAPs were required to be submitted to the Bank for approval before any land acquisition, resettlement or any other negative impact on livelihood occurs. The RPF was prepared by the Recipient Consultant and reviewed by the World Bank and Recipient and approved by both parties and was disclosed in-country and at the World Bank's Info shop. This was to ensure compliance with Recipient and Bank policy and most importantly to ensure effective preparation and implementation of the land acquisition, resettlement and compensation processes for the applicable projects.

The RPF was prepared in anticipation that the project activities in the different areas required additional land. The RPF therefore, provided safeguards against adverse impacts of development activities on communities. It provided procedures and means for adequately compensating for the losses the PAPs incurred in cases where resettlement could not be avoided. The guiding principle for land acquisition was that where land is required for implementation of the sub-project activities, the recommended safeguards were to be observed to reduce the suffering of the affected community members. The RPF applied to all funded projects of category (A-C). The overall responsibility for implementation of the Framework resided with the different WWDA and their partners. The WWDA were required to ensure that the Framework was publicly disseminated and that the program implementers had the requisite skills and knowledge and, where necessary, they were to receive appropriate training to implement the RPF.

The RPF prepared for WaSSIP covered:

- i. The principles and objectives governing resettlement and compensation
- ii. A description of the process for preparing and approving Resettlement and Compensation Action Plans
- iii. Land acquisition and likely categories of impacts
- iv. Eligibility criteria for defining various categories of Project Affected Persons (PAPS)
- v. A legal framework reviewing the fit between the laws of Kenya and regulations and the policy requirements of the World Bank and measures to bridge any gaps between them
- vi. The methods of valuing affected assets
- vii. The organizational procedures for the delivery of entitlements, including the responsibilities of the GOK and any private developer
- viii. A description of the implementation process, linking resettlement and compensation implementation to civil works
- ix. A description of grievance redress mechanisms
- x. A description of the arrangements for funding resettlement and compensation, including the preparation and review of cost estimates, the flow of funds, and contingency arrangements

- xi. A description of the mechanisms for consultation with and participation of displaced persons in planning, implementation, and monitoring
- xii. Arrangements for monitoring by the implementation agency and if required by independent monitors.

The number of PAPs who required resettlement and/or compensation was not yet known. For this reason, the RPF had a provisional estimated cost of US\$ 4.8 million for resettlement action planning and implementation, including a provision to ensure that resettlement was integrated into the project implementation. In cases where new land had to be acquired for the project, there was need for the preparation of procedures and principles for land acquisition, resettlement and compensation. This entailed providing sufficient investment resources to meet the needs of the Project Affected Persons (PAPs) who may be displaced from their habitat and resources. It also required adequate collaborative consultations and agreements with the PAPs to ensure that they maintained or improved their livelihoods and standards of living in the new environment.

Implementation of the RPF required a number of steps including:

- i. A full understanding of the project components, particularly those requiring land
- ii. Determination of land ownership
- iii. Screening of the project sites and activities
- iv. Property and asset valuation
- v. Preparation and approval of resettlement plans
- vi. Implementation and monitoring of the resettlement plans
- vii. Effective redress of complaints and grievances
- viii. Public consultation and participation.

4.1.3 FINDINGS ON COMPLIANCE WITH THE PROVISIONS OF RPF

The WWDA's were requested to provide information with regard to the key requirements of the RPF. The information was sought on the status of RAP and the date of approval and disclosure. This assessment established that most of the sub-projects met the requirements of the RPF. The results of the analysis conducted to establish the level of compliance for the three WWDA's are presented in the tables below.

Table 10 the RPF screening result for CWWDA

S/ No.	Sub-Project Description			Date of Disclosure
		Category*	Approval	RAP

		(A, B or C)	WB	
1	Emergency Immediate Works-Lot 1: Augmentation of the Baricho Well field & Electromechanical Works	B	RAP approved on 19th June 2017	28th June 2017
2	Emergency Immediate Works-Lot 3: Kakuyuni/Gongoni & Kakuyuni/Kilifi Interconnection Pipelines Works	B	RAP cleared on 21st June 2017	30th June 2017
3	Construction of Korondile Water Supply	B	RAP screening report given conditional No Objection on 19th Nov 2017.	Disclosed but date not provided
4	Construction of Kor Water Supply	B	RAP screening report given conditional No Objection on 19th Nov 2017.	Disclosed but date not provided
5	Rehabilitation of Kinna Water Supply	B	RAP screening report given conditional No Objection on 19th Nov 2017.	Disclosed but date not provided
6	Rehabilitation of the Bulk Water Pipeline System	C	Feb-12	Disclosed but date not provided
7	Extension/Construction of Water Supply pipelines: Lot 1 Nyalani Water Supply for Kwale County	B	Revised RAP cleared on 28th July 2016	22nd Oct 2016
8	Extension/Construction of Water Supply	B	RAP approved on 22-06-2016	15-08-2016

	pipelines: Lot 2 Expansion of Taveta Lumi Water Supply for Taita Taveta County			
9	Rehabilitation of the Mombasa WSP Water Reticulation Network-Part of Lot 2	B	RAP Report cleared on 14th Oct 2014	Aug-15
10	Construction of Surface Modular Pressed Steel Water Tanks for CWWDA	C	RAP cleared on 28-7-2016	Disclosed but date not provide
11	Rehabilitation/ Extension of Bura Water Supply in Tana River County	B	Cleared but not date provided	Disclosed but date not provided
12	Extension/ Construction of Water Supply pipelines in Masalanii in NWSB	B	cleared but not date provided	Disclosed but date not provided
13	Extension/ Construction of Water Supply pipelines in Moyale in NWSB	B	RAP report cleared but date not provided	Disclosed but date not provided
14	Extension/ Construction of Water Supply pipelines in Rumuruti in NWSB	B	RAP report cleared but date not provided	Disclosed but date not provided
15	Construction of Water Supplies in Drought Areas Lot 1: Equiping of Existing Boreholes for CWWDA Region	C	N/A	N/A
16	Construction of Water supplies in Drought Areas Lo2 - Development of water sources & Equipping with submersible pump sets, solar panels, Gensets in CWWDA Region	B	RAP report cleared but date not provided	Disclosed but date not provided
17	Construction of	C	N/A	N/A

	Water Supplies in Drought Areas Lot 3: Construction of Elevated Tanks at Existing Borehole Locations in CWWDA Area			
18	Construction of Water Supplies in Drought Areas Lot 4: Development of Borehole Water Sources & Equipping with Submersible Pump sets ,Solar Panels & Gensets at Ten(10) Sites in NWSB Region	C	N/A	N/A
19	Extending services to informal settlements- Mombasa Works-Lot 1 (Ziwa La Ng'ombe & VoK)	B	RAP cleared on 18th April 2014	Disclosed but date not provided
20	Extending services to informal settlements- Mombasa Works-Lot 2 (Kisumu Ndogo, Maweni, Matopeni & Shauri Yako)	B	RAP cleared on 18th April 2014	Disclosed but date not provided
21	Extending services to informal settlements - Kisumu Ndogo Malindi works	B	Cleared but date not provided	Disclosed but date not provided
22	Rehabilitation & Partitioning of Bulk Water Company offices	C	N/A	N/A
23	Installation of Plastics Tanks & gutters and Fittings at Various Sites in CWWDA	C	N/A	N/A
24	Installation of Plastics Tanks & gutters and Fittings at Various Sites in Wajir, Garissa & Mandera Counties in	C	N/A	N/A

	NWSB			
25	Installation of Plastics Tanks & gutters and Fittings at Various Sites Marsabit, Isiolo Counties in NWSB	C	N/A	N/A

Table 11 the RPF screening result for LVNWWDA

	Sub-Project Description	Category*	Approval	Date of Disclosure
		(A, B or C)	WB	RAP
1	Construction of Ellegrini/Kapsoya Water Supply Project	B	No Objection from WB on final RAP 25th November, 2015.	24th March, 2016
2	Construction of Water and Sanitation facilities for Informal Settlements in Mumias	C	No Objection from WB to final RAP received on 6-02-2015	26th October, 2015
3	Construction of Upstream Water Treatment Works and Distribution Lines, (Additional investment in Kapcherop)		No Objection for final RAP received from WB on 18th May, 2015	26th October, 2015
4	Drilling and capping of 17 No. Drought Boreholes LNWWDA	C	RAP screening Approved on 16/2/2015.	No action required
5	Drilling and capping of Drought Boreholes RVWSB	C	No Objection from WB to final RAP screening	No action required

			received from WB on 24th /2/2015.	
6	Drilling and capping of Drought Boreholes LVSWB	C	No Objection from WB to final RAP screening received from WB on 24th /2/2015.	Not applicable. Sites in public places.
7	Drilling and capping of Drought Boreholes LVSWB (Re-Tendered Works after Contract Termination).	C	No Objection from WB to final RAP screening received from WB on 24th /2/2015.	No action required
8	Equipping of Drought Boreholes and Civil Works LNWWDA -Lot 1- Elegeyo Marakwet County	C	Final RAP reports approved by the Bank on January 17, 2017.	No action required
9	Equipping of Drought Boreholes and Civil Works LNWWDA -Lot II - Nandi & Trans Nzoia Counties	C	Final RAP reports approved by the Bank on January 17, 2017.	No action required
10	Equipping of Drought Boreholes and Civil Works LNWWDA -Lot III - Busia & Kakamega	C	Final RAP reports approved by the Bank on January 17, 2017.	No action required
11	Equipping of Drought Boreholes and Civil Works LNWWDA -Lot IV - Bungoma County	C	Final RAP reports approved by the Bank on January 17, 2017.	No action required
12	Equipping of Drought Boreholes and Civil Works RVWSB- Lot I- Turkana County	C	Final RAP reports approved by the Bank on January 17, 2017.	No action required
13	Equipping of Drought Boreholes and Civil Works	C	Final RAP reports approved by	No action required

	RVWSB- Lot II- West Pokot County		the Bank on January 17, 2017.	
1 4	Equipping of Drought Boreholes and Civil Works RVWSB-Lot III- Baringo County	C	Final RAP reports approved by the Bank on January 17, 2017.	No action required
1 5	Equipping of Drought Boreholes and Civil Works RVWSB-Lot IV- Narok County	C	Final RAP reports approved by the Bank on January 17, 2017.	No action required
1 6	Equipping of Drought Boreholes and Civil Works LVSWSB -Lot I- Kisumu & Siaya (Palpal, Milambo and Kandege)	C	No action required	No action required
1 7	Equipping of Drought Boreholes and Civil Works LVSWSB -Lot II - Homabay & Migori (Obilo & Gunga)	C	No action required	No action required
1 8	Equipping of Drought Boreholes and Civil Works LVSWSB -Lot III - Homabay & Migori Counties (Kangeso & Nyamila)	C	No action required	No action required
1 9	Equipping of Drought Boreholes and Civil Works LVSWSB IV - Kisumu & Siaya Counties.(Reru and Kamrembo)	C	No action required	No action required
2 0	Rehabilitation/ Expansion of Water Supplies for LNWWDA - Kwanza Water Supply	C	RAP report approved by Bank on 22-6-2016.	16 th January, 2017
2 1	Rehabilitation/ Expansion of Water Supplies for RVWSB-	C	RAP report approved by Bank on 21-6-	Disclosed but date not provided

	Suswa Water Supply		2016.	
2 2	Rehabilitation/ Expansion of Water Supplies for RVWSB- Kapenguria Water Supply	C	RAP report approved by Bank on 22-6- 2016.	Disclosed but date not provided
2 3	Rehabilitation/ Expansion of Water Supplies for RVWSB- Kapindaram	C	No Objection from WB to final RAP on 21-6-2016.	Disclosed but date not provided
2 4	Construction of plinths/gutters for plastic water tanks 10,000lts for LNWWDA	C	No action required	No action required
2 5	Construction of plinths/gutters for plastic water tanks 10,000lts for RVWSB in Turkana	C	No action required	No action required
2 6	Construction of plinths/gutters for plastic water tanks 10,000lts for RVWSB in West Pokot	C	No action required	No action required
2 7	Construction of plinths/gutters for plastic water tanks 10,000lts for RVWSB in Baringo	C	No action required	No action required
2 8	Construction of plinths/gutters for plastic water tanks 10,000lts for LVSWSB	C	No action required	No action required

Table 12 the RPF screening result for AWWDA

S/ No.	Sub-Project Description			Date of Disclosure
		Category*	Approval	
		(A, B or C)	WB	
1	Bulk Water Supply to Nairobi: Construction of Northern Collector Tunnel Phase 1	A	RAP Reports for NCT1 were approved by WB on 27/1/2015 and	4/6/2015

			3/12/2014 respectively	
2	Nairobi Bulk Water Supply: Construction of Raw Water Gravity Main (Thika Dam-Kigoro)	A	N/A	N/A
3	Nairobi Bulk Water Supply: Construction of Raw and Treated Water Gravity Main (Kigoro-Ngethu.	A	15/6/2018	20/6/2018
4	High Level water treatment Works at Kigoro	A	There was no RAP (Only 2 PAPs affected) The land was acquired on willing buyer-willing seller	N/A
5	Development of 4 deep (600m) and 4 shallow (250m) Exploratory/pilot Wells at Ruiru and Kiunyu	B	There was no RAP (only 11 PAPs were affected and the land was acquired on willing buyer-willing seller	N/A
	Construction of Independent Community Water Supply along the Northern Collector Tunnel Phase 1 to Thika Dam - Muranga W/S	B	9/6/2015	23/6/2015
6	Improvement of Sanitation in Informal Settlements in Nairobi: Matopeni/Spring Valley Sewerage Works-Lot 3	B	RAP cleared on 11-12-2013	22/10/2015
7	Improvement of Sanitation in Informal Settlements in Nairobi: Embakasi Riverbank Sewerage Works-Lot 4B	B	RAP cleared on 11-12-2013	22/10/2015
8	Improvement of Sanitation in Informal Settlements in Nairobi: Huruma 3 villages (Ghetto, Mahiira & Redeemed) Sewerage Works-Lot 5A	B	RAP cleared on 3-7-2013	22/10/2015
9	Construction of Kiambu Water Supply Works	B	RAP cleared on 2-7-2015	13/7/2015
10	Construction of Community water supply downstream of Thika Dam (Gatanga Water Supply)	B	RAP Report was cleared by WB on 21/2/2014	22/10/2015

11	Construction of 5000m ³ Concrete Water Tank and Improvement of Ruiru Treatment Plant	C	There was no RAP (Land is owned by AWWDA)	N/A
12	Extension of water distribution network for Githunguri WSP Area	B	RAP report cleared on 25/07/2016	8/3/2017
13	Development of Kikuyu Springs Water Sources for Kikuyu Town	B	There was no RAP (only 9 PAPs were affected and the land was acquired on willing buyer-willing seller	N/A
14	Renovation and Construction of 5 Water Appeal Board's Offices/courts (Narok, Kisumu, Eldoret, Kitui and Kakamega)	B	No RAP (Constructed on public land).	N/A
15	Drilling and Equipping of 7 Boreholes within Athi WSB area (Phase 1)	B	4/12/2015	18/7/2016
16	Drilling and Equipping of 14 Boreholes within Athi WSB area (Phase 2)	B	No RAP (Constructed on public land).	N/A
17	Drilling and Equipping 5 Boreholes within Tana WSB area	B	4/12/15	18/7/2016
18	Drilling and Equipping of Boreholes 20 within Tanathi Water Services Board- Lot 1: Kajjado, Lot 2: Kitui, Lot 3: Machakos and Makueni	B	4/12/15	18/7/2016
19	Rehabilitation and Expansion of Wote Water supply in Tanathi WSB Area	B	No RAP(Construct ed on public land)	N/A
20	Rehabilitation and Expansion of Mwala Water Water Supply in Tanathi WSB Area	B	No RAP(Construct ed on public land)	N/A
21	Rehabilitation of Amboseli Pastoralist Water Supply in Tanathi WSB Area	B	No RAP(construct ed on public land)	N/A
22	Construction of Mwea-Makima Water Supply in Tana WSB Area	B	RAP Report approved on 4/8/2015	22/10/2015

23	Installation of water tanks, construction of tank-base and guttering for rainwater harvesting in AWWDA area	C	No RAP(constructed on public land)	N/A
24	Installation of water tanks, construction of tank-base and guttering for rainwater harvesting in Tanathi WSB area	C	No RAP(constructed on public land)	N/A
25	Installation of water tanks, construction of tank-base and guttering for rainwater harvesting in Tana WSB area	C	No RAP(constructed on public land)	N/A
26	Construction of AWWDA and NCWSC Operations Building	B	No RAP(constructed on public land)	N/A
27	Augmentation of Tigoni Water Supply	B	No RAP(constructed on public land)	N/A
28	Independent Water Supply along NCT (Gatango Water Supply)	B	There was no RAP (only 3 PAPs were affected and the land was acquired on willing buyer-willing seller	N/A
29	Ichichi, Kiruri and Makomboki Community Water Supply in Murang'a County	B	28/6/18	7/12/2018
30	Ruiru Sewerage Network Improvement	B	4/2/18	14/2/2018

Non-compliance issues arising from the screening for key social and environmental safeguards documents for WaSSIP.

The EMSF and RPF which was part of the approved PAD required the WWDA to categorize the sub-projects and conduct appropriate environment and social actions ranging from preparation of EIA and RAPs as well as undertaking environmental audits and screening. The PAD also required all projects in category A and B to obtain NEMA license. All RAPs and EIA reports were supposed to be prepared by the Recipient consultant and submitted for review and approval by the World Bank and the Government and disclosed in-country and at the World Bank’s Info shop. However, this assessment revealed that WWDA did not have information regarding the date of approval and disclosure of RAPs and EIA for certain projects. The proof of issuance of NEMA license for certain projects which required NEMA approval was also missing. A discussion with safeguards contact persons from the three WWDA confirmed that no project could have been allowed to go to implementation without the preparation and approval of the necessary safeguards documents. CWWDA and LVNWWDA had the highest number of projects with missing information on the status of key safeguards documents. They attributed this to lack of proper co-ordination of safeguards aspects of the projects. They also reported that safeguards components were handled by various staff members and some of them had already left the organizations and it would not have been easy for them to provide the missing information during this assessment. No proper handover was being done with regards to safeguards documents. AWWDA has maintained stability for safeguards staff during the project period and most of the information required was provided. All approved safeguards documents should have been uploaded in the project designated websites of the implementing agencies. However, this was found not to be the case during this assessment. A link provided for the project is indicated below but it did not contain much of the information on safeguards documents for most of the projects implemented under WaSSIP. (<https://projects.worldbank.org/en/projects-operations/document-detail/P126637#>)

Table 13. Gap filling measures

Gaps	Action	Time frame
Designated website for safeguards documents	All the WWDA should have a designated websites for key safeguards documents	6 months
Incomplete documentation in the WaSSIP link(https://projects.worldbank.org/en/projects-operations/document-detail/P126637#)	The link to be upgraded to include all safeguards documents	6 months
Uncoordinated transition for safeguards contact persons	Proper plans should be put in place to	1 Month

	ensure that all safeguards staff exiting the organizations performs proper hand over procedures for key safeguards documents	
Proof of issuance of NEMA licenses	Specific folders with copies of NEMA licenses issued for WaSSIP projects should be created to be availed on demand	3 months

5.0 PRESENTATION OF FINDINGS FROM FIELD ASSESSMENT ON THE IMPLEMENTATION OF RAPS AND SOCIAL ASPECTS OF ESMP

A total of 12 sub-projects were visited during the assessment. Primary data was collected from various sources including the PAPs, project staff and other stakeholders through in-depth interviews, key informant interviews, focus group discussions, and field observations. The assessment was conducted using interview schedules. Secondary data was collected by reviewing project documents. The projects are indicated below:

AWWDA

- i. Northern Collector Tunnel
- ii. Kigoro-Ngethu pipeline
- iii. Gatanga water supply project
- iv. Murang'a water supply project
- v. Mwea Makima water project

CWDDA

- i. Extension/construction of Taveta Lumi Water Supply in Taita Taveta County
- ii. Emergency Immediate Works-Lot 1: Augmentation of the Baricho Well Field and Electromechanical Works
- iii. Emergency Immediate Works-Lot 3: Kakuyuni/Gongoni and Kakuyuni/Kilifi Interconnection Pipelines Works
- iv. Extension/construction of Nyalani Water Supply in Kwale County
- v. Rehabilitation of the Mombasa WSP water reticulation Network-Part of Lot 2

LVNWWDA

- i. Suswa water supply project
- ii. Kapcherop Indigenous people water supply project

5.1 PRESENTATION OF FINDINGS FROM IN-DEPTH INTERVIEWS

In-depth interviews were conducted with 135 project affected persons spread across different sub-projects from the three project components. The findings are presented in the tables below.

5.1.1 SOCIO-DEMOGRAPHIC CHARACTERISTICS

Table 14 Socio-demographic characteristics

Gender	AWWDA	CWWDA	LVNWWDA	
Male	29%	38%	26%	
Female	71%	62%	74%	
Total	100%	100%	100%	
Age		AWWDA	CWWDA	LVNWWDA
65 years and above	Female	4%	0%	0%
	Male	12%	8%	4%
Between 18-34 years	Female	2%	5%	0%
	Male	12%	7%	9%
Between 36-65 years	Female	22%	32%	26%
	Male	49%	47%	61%
	Total	100%	100%	100%
Level of education		AWWDA	CWWDA	LVNWWDA
None	Female	4%	14%	0%
Post-Secondary		0%	0%	4%
Primary		22%	15%	13%
Secondary		4%	10%	9%
None	Male	6%	12%	0%
Post-Secondary		2%	3%	22%
Primary		24%	31%	22%
Secondary		37%	15%	30%
	Total	100%	100%	100%
Marital Status	AWWDA	CWWDA	LVNWWDA	
Married	85%	80%	96%	
Separated	0%	5%	0%	
Single	8%	2%	0%	
Widowed	8%	13%	4%	
Total	100%	100%	100%	
Occupation		AWWDA	CWWDA	LVNWWDA
Others	Female	2%	2%	4%
Small scale traders		0%	17%	4%
Subsistence farming		27%	20%	17%
Artisan		12%	5%	9%
Others	Male	2%	3%	26%
Small scale traders		4%	5%	4%
Subsistence farming		2%	17%	4%

Artisans		52%	32%	30%
	Total	100%	100%	100%
Income		AWWDA	CWWDA	LVNWWDA
Below KES. 5000	Female	15%	17%	17%
Between KES. 5000-20000		8%	21%	9%
kes. 20000 and above		6%	0%	0%
Below KES. 5000	Male	29%	10%	17%
Between KES. 5000-20000		33%	36%	30%
kes. 20000 and above		10%	16%	26%
	Total	100%	100%	100%
Health Status		AWWDA	CWWDA	LVNWWDA
Good Health	Female	21%	30%	26%
Ill health		8%	8%	0%
Good Health	Male	65%	48%	74%
Ill health		6%	13%	0%
	Total	100%	100%	100%
Physical fitness	Physical fitness	AWWDA	CWWDA	LVNWWDA
Disabled	Female	2%	0%	0%
Not Disabled		27%	38%	26%
Disabled	Male	0%	5%	0%
Not Disabled		71%	57%	74%
	Total	100%	100%	100%

5.1.2 STAKEHOLDER ENGAGEMENT

Table 15 Stakeholder engagement

Agency	Stakeholder engagement	Agree	Disagree	Strongly Agree	Strongly Disagree	Not Sure	n
AWWDA	Project beneficiaries were involved in the project Selection	55%	6%	21%	17%	0%	100%
	Beneficiaries are involved in making key decisions concerning the project	47%	9%	19%	26%	0%	100%
	Beneficiaries participate in project activities	64%	9%	16%	11%	0%	100%
	Beneficiaries Know where to obtain project information	47%	9%	23%	19%	2%	100%
	Proper communication channels have been put in place to pass information about the project	51%	11%	26%	11%	2%	100%
	The information given to the Beneficiary is reliable	47%	9%	28%	11%	6%	100%
	Beneficiaries get information in a timely manner	43%	6%	30%	19%	2%	100%
	Women were also consulted and given equal opportunity	42%	2%	44%	7%	4%	100%
CWWDA	Project beneficiaries were involved in the project Selection	5%	90%	0%	5%	0%	100

							%
	Beneficiaries are involved in making key decisions concerning the project	3%	88%	3%	3%	2%	100%
	Beneficiaries participate in project activities	8%	87%	0%	2%	3%	100%
	Beneficiaries Know where to obtain project information	42%	55%	3%	0%	0%	100%
	Proper communication channels have been put in place to pass information about the project	42%	47%	3%	5%	3%	100%
	The information given to the Beneficiary is reliable	44%	49%	2%	2%	3%	100%
	Beneficiaries get information in a timely manner	28%	65%	2%	3%	2%	100%
	Women were also consulted and given equal opportunity	10%	17%	3%	7%	63%	100%
LVNWW DA	Project beneficiaries were involved in the project Selection	52%	30%	0%	17%	0%	100%
	Beneficiaries are involved in making key decisions concerning the project	30%	48%	13%	0%	9%	100%
	Beneficiaries participate in project activities	48%	35%	0%	13%	4%	100%
	Beneficiaries Know where to obtain project information	39%	39%	0%	9%	13%	100%
	Proper communication channels have been put in place to pass information about the project	26%	48%	4%	13%	9%	100%
	The information given to the Beneficiary is reliable	39%	35%	0%	9%	17%	100%
	Beneficiaries get information in a timely manner	43%	35%	4%	9%	9%	100%
	Women were also consulted and given equal opportunity	26%	43%	0%	17%	13%	100%

The results of the analysis of in-depth interviews indicate that stakeholder engagements with PAPs were undertaken by the WWDAs during the implementation of various projects in their respective service areas.

5.1.3 CENSUS/ASSET VALUATION AND COMPENSATION

Table 16 Census/asset valuation and compensation

Agency	Census for asset valuation and compensation	Agree	Disagree	Strongly Agree	Strongly Disagree	Not Sure	Not applicable	n
AWWDA	The cut off date for census was properly communicated to PAPs	50%	5%	32%	14%	0%	0%	100%
	PAPs assets were properly enumerated	40%	0%	44%	13%	0%	2%	100%
	PAPs were compensated promptly	42%	13%	27%	16%	2%	0%	100%
	The compensation was done at full replacement costs	27%	14%	11%	41%	7%	0%	100%
	PAPs were given enough time to relocate and salvage the remaining property	23%	5%	25%	5%	5%	39%	100%
	PAPs were assisted to relocate	7%	7%	11%	16%	11%	49%	100%
	PAPs who hold title to their land were compensated	29%	2%	60%	2%	7%	0%	100%
	PAPs without title(squatters) were compensated	4%	4%	20%	42%	20%	9%	100%

	PAPs who rented land and business premises were compensated.	14%	0%	27%	9%	34%	16%	100%
	Graves were compensated	0%	0%	0%	11%	41%	48%	100%
	Graves were relocated by the family members of the deceased after compensation	0%	0%	0%	11%	42%	47%	100%
	Graves were never relocated after compensation	2%	0%	2%	4%	40%	51%	100%
	Adequate budget was set aside for compensation	16%	2%	11%	27%	38%	7%	100%
	Grievances related to compensation amount were dealt with by the National Land Commission	11%	2%	0%	24%	13%	49%	100%
	The commission allowed PAPs to ask for revaluation of their asset if they felt dissatisfied by the amount and asset census	14%	2%	2%	16%	11%	55%	100%
	Women were given their rightful share of compensation	33%	0%	47%	9%	11%	0%	100%
CWWDA	The cut off date for census was properly communicated to PAPs	23%	73%	2%	2%	0%	0%	100%
	PAPs assets were properly enumerated	5%	85%	0%	10%	0%	0%	100%
	PAPs were compensated promptly	22%	70%	3%	3%	2%	0%	100%
	The compensation was done at full replacement costs	10%	83%	3%	3%	0%	0%	100%
	PAPs were given enough time to relocate and salvage the remaining property	28%	52%	0%	7%	10%	3%	100%
	PAPs were assisted to relocate	3%	22%	2%	17%	37%	20%	100%
	PAPs who hold title to their land were compensated	75%	17%	0%	2%	5%	2%	100%
	PAPs without title(squatters) were compensated	78%	12%	0%	0%	10%	0%	100%
	PAPs who rented land and business premises were compensated.	68%	8%	0%	8%	7%	8%	100%
	Graves were compensated	5%	5%	0%	25%	25%	40%	100%
	Graves were relocated by the family members of the deceased after compensation	0%	8%	0%	27%	25%	40%	100%
	Graves were never relocated after compensation	2%	8%	0%	22%	27%	41%	100%
	Adequate budget was set aside for compensation	0%	7%	0%	29%	60%	3%	100%
	Grievances related to compensation amount were dealt with by the National Land Commission	0%	2%	0%	23%	75%	0%	100%
	The commission allowed PAPs to ask for revaluation of their asset if they felt dissatisfied by the amount and asset census	0%	3%	0%	32%	65%	0%	100%
	Women were given their rightful share of compensation	25%	2%	2%	17%	55%	0%	100%
LVNWWDA	The cut off date for census was properly communicated to PAPs	39%	35%	0%	4%	22%	0%	100%
	PAPs assets were properly enumerated	4%	39%	4%	9%	43%	0%	100%
	PAPs were compensated promptly	35%	9%	4%	9%	43%	0%	100%
	The compensation was done at full replacement costs	4%	30%	4%	17%	43%	0%	100%
	PAPs were given enough time to relocate and salvage the remaining property	23%	18%	14%	23%	0%	23%	100%
	PAPs were assisted to relocate	5%	36%	5%	14%	18%	23%	100%
	PAPs who hold title to their land were compensated	83%	0%	13%	0%	0%	4%	100%
	PAPs without title(squatters) were compensated	23%	5%	5%	0%	41%	27%	100%
	PAPs who rented land and business premises were compensated.	4%	0%	9%	0%	22%	65%	100%
	Graves were compensated	0%	4%	0%	0%	26%	70%	100%

						%	%	%
	Graves were relocated by the family members of the deceased after compensation	0%	0%	0%	0%	26%	74%	100%
	Graves were never relocated after compensation	0%	0%	0%	0%	26%	74%	100%
	Adequate budget was set aside for compensation	9%	17%	4%	9%	61%	0%	100%
	Grievances related to compensation amount were dealt with by the National Land Commission	0%	22%	0%	61%	17%	0%	100%
	The commission allowed PAPs to ask for revaluation of their asset if they felt dissatisfied by the amount and asset census	0%	22%	0%	61%	17%	0%	100%
	Women were given their rightful share of compensation	59%	14%	0%	5%	18%	5%	100%

The findings indicate that cut-of date was communicated for most of the projects. Majority of the PAPs believed that compensation was not done at full replacement cost and that the budget for compensation was not adequate. Only a few PAPs were relocated by the projects. Most PAPs were not aware whether the graves were affected or compensated. There was no grave affected by the projects in the parcels belonging to PAPs who participated in this assessment. The National Land Commission was never involved in compensation save for the Ngethu and Kigoro treated water pipeline project in AWWDA. Land compensation was made only to PAPs with legal ownership documents while all the PAPs were compensated for development.

5.1.4 GRIEVANCE REDRESS MECHANISM

Table 17 Grievance Redress Mechanism

Agency	Grievance Redress Mechanism	Agree	Disagree	Strongly Agree	Strongly Disagree	Not Sure	Not applicable	n
AWWDA	The project has reliable and transparent grievance redress mechanisms	39%	11%	20%	20%	7%	2%	100%
	Grievance redress mechanism is accessible to PAPs	36%	11%	18%	22%	9%	4%	100%
	The grievances are reported and recorded in the grievance log books	38%	2%	20%	13%	24%	2%	100%
	Grievances are promptly resolved and feedback given to the complainants	16%	2%	24%	40%	16%	2%	100%
	PAPs have their representatives in the GRM committees	2%	7%	2%	56%	24%	9%	100%
	Grievances related to compensation amount is	4%	0%	0%	29%	9%	58%	100

	addressed by the National Land Commission				%		%	%
	PAPs are allowed to ask for review of compensation amount by the NLC	4%	0%	0%	24%	13%	58%	100%
	Women are represented in the GRM committee	13%	2%	18%	29%	18%	20%	100%
	Complains from women are treated fairly by the GRM committee	16%	0%	25%	25%	14%	20%	100%
CWWDA	The project has reliable and transparent grievance redress mechanisms	3%	68%	0%	12%	15%	2%	100%
	Grievance redress mechanism is accessible to PAPs	3%	63%	2%	15%	17%	0%	100%
	The grievances are reported and recorded in the grievance log books	7%	37%	2%	18%	37%	0%	100%
	Grievances are promptly resolved and feedback given to the complainants	3%	68%	0%	15%	13%	0%	100%
	PAPs have their representatives in the GRM committees	2%	77%	0%	8%	12%	2%	100%
	Grievances related to compensation amount is addressed by the National Land Commission	0%	10%	0%	28%	62%	0%	100%
	PAPs are allowed to ask for review of compensation amount by the NLC	0%	10%	0%	31%	59%	0%	100%
	Women are represented in the GRM committee	0%	12%	0%	28%	60%	0%	100%
	Complains from women are treated fairly by the GRM committee	0%	10%	2%	28%	60%	0%	100%
LVNWWD A	The project has reliable and transparent grievance redress mechanisms	17%	43%	0%	26%	13%	0%	100%
	Grievance redress mechanism is accessible to PAPs	22%	48%	0%	17%	13%	0%	100%
	The grievances are reported and recorded in the grievance log books	13%	35%	0%	9%	43%	0%	100%
	Grievances are promptly resolved and feedback given to the complainants	22%	52%	4%	9%	13%	0%	100%
	PAPs have their representatives in the GRM committees	4%	26%	4%	35%	30%	0%	100%
	Grievances related to compensation amount is addressed by the National Land Commission	4%	13%	0%	65%	17%	0%	100%
	PAPs are allowed to ask for review of compensation amount by the NLC	4%	9%	4%	61%	22%	0%	100%
	Women are represented in the GRM committee	4%	9%	0%	70%	17%	0%	100%
	Complains from women are treated fairly by the GRM committee	4%	9%	0%	70%	17%	0%	100%

All projects had grievance redress mechanisms in place although majority of the PAPs did not believe that such mechanisms were reliable, accessible and transparent. NLC was not involved in dispute resolution for most of the projects apart from few cases referred to them for compulsory acquisition. Most of the PAPs reported that the timing of grievance resolution was not prompt. At the same time, some PAPs were not aware whether the grievances were being recorded or not. Majority of the PAPs reported that women were not represented in the grievance redress committees.

5.1.5 LIVELIHOOD RESTORATION

Table 18 Livelihood restoration

Agency	Livelihood restoration	Agree	Disagree	Strongly Agree	Strongly Disagree	Not Sure	Not applicable	n
AWWDA	Livelihood restoration plan was prepared and	18	5%	7%	39%	9%	23%	100

	shared with all the PAPs	%						%
	All the PAPs have had their livelihoods restored back to pre-project status	14 %	9%	11%	27%	16 %	23%	100 %
	All the PAPs have had their livelihoods restored to better than pre-project status	5%	2%	5%	43%	23 %	23%	100 %
	The Livelihoods of PAPs are worse than the pre-project level	13 %	7%	7%	31%	18 %	24%	100 %
	PAPs were trained on financial management	2%	4%	4%	33%	4%	51%	100 %
	PAPs were trained on farming skills	2%	4%	2%	36%	4%	51%	100 %
	PAPs were assisted with farming inputs	2%	2%	2%	38%	7%	49%	100 %
	PAPs were trained on business skills	2%	2%	4%	36%	4%	51%	100 %
	PAPs were employed in the project	18 %	0%	36%	24%	9%	13%	100 %
	PAPs were compensated for loss of business and employment opportunities	0%	0%	2%	27%	25 %	45%	100 %
	Adequate budget was set aside for livelihood restoration	2%	4%	0%	18%	33 %	42%	100 %
	Women were given due consideration in terms of livelihood restoration	2%	4%	7%	18%	27 %	42%	100 %
CWWDA	Livelihood restoration plan was prepared and shared with all the PAPs	0%	67 %	0%	5%	28 %	0%	100 %
	All the PAPs have had their livelihoods restored back to pre-project status	28 %	62 %	0%	5%	5%	0%	100 %
	All the PAPs have had their livelihoods restored to better than pre-project status	13 %	70 %	3%	8%	5%	0%	100 %
	The Livelihoods of PAPs are worse than the pre-project level	32 %	38 %	5%	3%	20 %	2%	100 %
	PAPs were trained on financial management	0%	90 %	0%	8%	2%	0%	100 %
	PAPs were trained on farming skills	0%	92 %	0%	7%	2%	0%	100 %
	PAPs were assisted with farming inputs	0%	92 %	0%	7%	2%	0%	100 %
	PAPs were trained on business skills	0%	92 %	0%	7%	2%	0%	100 %
	PAPs were employed in the project	10 %	80 %	0%	7%	2%	2%	100 %
	PAPs were compensated for loss of business and employment opportunities	69 %	19 %	0%	7%	5%	0%	100 %
	Adequate budget was set aside for livelihood restoration	2%	10 %	0%	7%	82 %	0%	100 %
	Women were given due consideration in terms of livelihood restoration	3%	3%	0%	8%	85 %	0%	100 %
LVNWWDA	Livelihood restoration plan was prepared and shared with all the PAPs	13 %	43 %	0%	30%	13 %	0%	100 %
	All the PAPs have had their livelihoods restored back to pre-project status	30 %	30 %	4%	9%	26 %	0%	100 %
	All the PAPs have had their livelihoods restored to better than pre-project status	13 %	43 %	0%	17%	26 %	0%	100 %
	The Livelihoods of PAPs are worse than the pre-project level	27 %	36 %	9%	5%	23 %	0%	100 %
	PAPs were trained on financial management	0%	39 %	0%	52%	9%	0%	100 %
	PAPs were trained on farming skills	0%	39 %	0%	52%	9%	0%	100 %
	PAPs were assisted with farming inputs	0%	35 %	0%	57%	9%	0%	100 %
	PAPs were trained on business skills	0%	35 %	0%	57%	9%	0%	100 %
	PAPs were employed in the project	0%	56 %	11%	33%	0%	0%	100 %
	PAPs were compensated for loss of business and employment opportunities	4%	17 %	0%	13%	9%	57%	100 %
	Adequate budget was set aside for livelihood restoration	9%	30 %	0%	13%	48 %	0%	100 %
	Women were given due consideration in terms of livelihood restoration	17 %	39 %	0%	30%	13 %	0%	100 %

The projects did not lead to relocation of PAPs and no livelihood restoration plan was prepared. There was no significant shift in the mode of livelihoods of most PAPs. However, some PAPs lost their business kiosks especially within CWWDA. All the PAPs were compensated for loss of assets. Some PAPs were employed by the contractor during construction of the projects. There was no budget set aside for livelihood restoration programmes.

5.1.6 ASSISTANCE TO VULNERABLE PAPs

Table 19 Assistance to vulnerable PAPs

Agency	Assistance to vulnerable PAPs	Agree	Disagree	Strongly Agree	Strongly Disagree	Not Sure	Not applicable	n
AWWDA	Elderly PAPs were assisted to relocate and given additional support to rebuild their livelihoods	4%	9%	4%	16%	27%	40%	100%
	Sick PAPs were assisted to relocate and given additional support to rebuild their livelihoods	2%	9%	2%	11%	33%	42%	100%
	Illiterate PAPs household heads were supported to relocate and accorded additional support to restore their livelihoods	4%	4%	2%	18%	36%	36%	100%
	PAPs who were orphans were supported to relocate and accorded additional support to restore their livelihoods	4%	4%	2%	18%	33%	38%	100%
	Women and children were assisted to relocate and given additional support to rebuild their livelihoods	4%	4%	4%	20%	31%	36%	100%
CWWDA	Elderly PAPs were assisted to relocate and given additional support to rebuild their livelihoods	0%	7%	2%	28%	62%	2%	100%
	Sick PAPs were assisted to relocate and given additional support to rebuild their livelihoods	0%	7%	2%	32%	58%	2%	100%
	Illiterate PAPs household heads were supported to relocate and accorded additional support to restore their livelihoods	0%	7%	2%	32%	58%	2%	100%
	PAPs who were orphans were supported to relocate and accorded additional support to restore their livelihoods	0%	7%	2%	30%	60%	2%	100%
	Women and children were assisted to relocate and given additional support to rebuild their livelihoods	0%	7%	2%	30%	60%	2%	100%
LVNWWDA	Elderly PAPs were assisted to relocate and given additional support to rebuild their livelihoods	0%	22%	0%	70%	4%	4%	100%
	Sick PAPs were assisted to relocate and given additional support to rebuild their livelihoods	0%	17%	0%	70%	9%	4%	100%
	Illiterate PAPs household heads were supported to relocate and accorded additional support to restore their livelihoods	0%	22%	0%	70%	0%	9%	100%
	PAPs who were orphans were supported to relocate and accorded additional support to restore their livelihoods	0%	22%	0%	70%	4%	4%	100%
	Women and children were assisted to relocate and given additional support to rebuild their livelihoods	0%	18%	0%	68%	5%	9%	100%

The project did not lead to mass relocations and very few PAPs required relocation assistance. No case was reported for a vulnerable PAP who required relocation assistance.

5.1.7 SOCIAL SAFEGUARD ISSUES RELATED TO THE CONTRACTORS AND THE LOCAL POPULATION

Table 20 Social safeguard issues related to the contractors and the local population

Agency	Social safeguard issues related to the contractors and the local population	Agree	Strongly Disagree	n
AWW DA	The contractors prepared labor influx management plan	40%	60%	100%
	The contractor provided employment priority to the local people and especially PAPs	100%	0%	100%
	The contractors trained employees on HIV/AIDS issues	60%	40%	100%
	The contractor prepared Occupational safety and social health management plan and shared with employees	100%	0%	100%
	The contractor prepared Grievance redress mechanism to deal with gender based violence and other forms of grievances at work place	100%	0%	100%
	The employees had their representatives in the grievance redress mechanism system	100%	0%	100%
	Cases of sexual relationship between the contractor's employees and the locals were reported	20%	80%	100%
	Women were given equal employment opportunities	60%	40%	100%
	Women were not discriminated in wages and salary payments	60%	40%	100%

Most of the projects had been completed by the time this assessment was being conducted. The contractors had already demobilized their staff from the projects. The data captured in the above table represents the findings of the interviews conducted with the construction workers at the Northern collector tunnel camp where the contractor was still working at the site. The contractor prepared labor influx management plan, provided employment priority to the local people and especially PAPs, trained employees on HIV/AIDS issues, prepared occupational safety and social health management plan and shared with employees and prepared grievance redress mechanism to deal with gender based violence and other forms of grievances at work place. The employees had their representatives in the grievance redress mechanism system. Women were given equal employment opportunities and were not discriminated in wages and salary payments.

5.2 PRESENTATION OF FINDINGS OF QUALITATIVE DATA

5.2.1 AWWDA PROJECTS

5.2.1.1 Murang'a water supply

The project aims to improve the water supply in Murang'a County through construction of Independent community water supply along the Northern collector tunnel phase 1. This is part of AWWDA strategy to address the water needs of the communities living along and downstream of the proposed Northern collector tunnel phase 1. The Murang'a water supply project is one of the components under the WaSSIP-Additional financing funded by the Government of Kenya and the World Bank. The project commenced on 30th July 2014. The construction is substantially complete and has been handed for operation. The components of this project which required land acquisition and thereby triggered World Bank OP 4.12 include:

- i. Muruka-Kenol-Makuyu Pipeline - 34Km
- ii. Mareira-Sabasaba-Muthithi - 16.5Km
- iii. Kaharati-Iganjo Pipeline - 6.5Km
- iv. Rwathia - Mukangu pipeline - 27Km
- v. Kayahwe - Kambirwa Pipeline - 12Km
- vi. Kahuti II Water Treatment Plant - 4,000m³/day
- vii. Kiriciiungu Water Treatment Plant - 4,000m³/day

RAP preparation and implementation

The Resettlement Action Plan (RAP) Report was prepared in-house by AWWDA and was approved by the World Bank on 9th June 2015. It consists of a total of 524 PAPs. The report contains land to be acquired as way leave, inventory of assets (structures), crops and trees and livelihoods to be affected by the project including the valuation amount and register of project Affected Persons (PAPs). Approximately Kshs. 31,779,778.00 was estimated as the RAP implementation budget.

RAP Review

During implementation of the RAP, some of the sections of the pipeline were realigned and this necessitated a review of the valuation roll. In some instances, more PAPs were affected and in some areas, the same PAPs were affected but their entitlements changed. The reviewed valuation roll for these PAPs was submitted on 9th December 2016 which had additional 37 PAPs with a total compensation of Kshs 4,942,316.00 thus increasing the total number of project affected persons to 505 and the compensation amounts to Kshs. 36,722,094.00.

Stakeholder engagement

Majority of the PAPs reported that they were involved at different stages of project implementation. The officers from AWWDA and the National government officials especially the chiefs informed the PAPs about the planned project. PAPs reported that the contractor initially commenced work on their parcels before an agreement was reached between them and the government. The work was stopped to pave the way for engagement between the PAPs and the government officials. An agreement was reached and the contractor was allowed to proceed after the valuation of the affected property. Compensation was paid after the commencement of work. The RAP report contains information on stakeholder consultation meetings held during the RAP preparation processes.

Valuation and compensation

Majority of the PAPs were happy with the compensation awards offered to them. The valuation was done for both land, crops and development. The PAPs with legal land ownership were paid promptly upon the execution of sale agreements. The PAP had to produce title deed as proof of ownership before receiving land compensation. Most PAPs with succession cases have not been compensated to date. It is not clear to them whether it is the PAP or the government who is going to facilitate the process of succession. One PAP pointed out that land title search indicated the names of their kinsmen and the government should allow them to swear affidavit so that they can be paid without the long process of succession.

Grievance redress mechanism

Most of the grievances were reported to the office of the chief. Some grievances were reported to AWWDA project offices. The PAPs indicated that the chiefs recorded the grievances once they were reported to them. There were grievances which lead to a repeat of the valuation process. Majority of the grievances were related to valuation. Some PAPs did not agree with initial valuation. Reported disputes were related to ownership and sharing of compensation money. The area chief was in charge of solving disputes involving family members. The members of the grievance redress committee included:

- i. Project staff from AWWDA
- ii. The County valuer
- iii. Area chief
- iv. Resident engineer

It was noted that the PAPs were not represented in the GRM committee. Different members of the grievance team dealt with specific grievances related to their work areas. The above mechanism was accessible because the resident engineer was available on the site most of the time. Most of the grievances were promptly handled and the feedback given to the affected PAPs within a period of two weeks. The project did not at any time involve the NLC. All RAP activities were done in-house and accomplished objectives. The compensation was administered by AWWDA and PAPs were free to request for review of valuation amount. There were cases of several women whose valuation were reviewed upwards following their complains. There were grievance forms to be filled by the PAPs. A total of 32 cases of grievances in the matter of valuation amount were reviewed upwards and paid.

Vulnerable PAPs

The project did not lead to relocation of any PAP. However, the elderly and the sick PAPs were assisted by their relatives to execute sale agreements and they secured their compensation funds.

Impacts on livelihood

There was no livelihood restoration plan or programme for this project. There was minimal impact on the livelihoods of PAPs as the project did not occasion a change in livelihood mode. PAPs were dully compensated for the portions of land acquired for the project. Some PAPs were employed by the contractor during construction and earned income during that period.

Progress to date

So far, majority of the PAPs have been compensated except those who have succession challenges and those who are yet to sign the sale agreements. For

those with succession challenges, it was agreed together with the PAPs that AWWDA would compensate crops/trees/structures as they commence the succession process. The land compensation amounts will only be disbursed upon conclusion of succession cases. The last payment under this project was done on 25th August 2017. Currently, a total of Ksh 25,058,907.00 has been paid out to the PAPs leaving a balance of Kshs. 11,663,187.00.

Table 21 Payment status

S/N	Description	Amount (Kshs)
1.	Total entitlement	36,722,094.00
2.	Amount already paid to PAPs	25,058,907.00
3.	1 st Payment	8,387,580.00
4.	2nd Payment	4,955,753.00
5.	3rd payment	3,589,710.00
6.	4th payment	3,351,034.00
7.	5th payment	2,066,778.00
8.	6th payment	557,870.00
9.	7th payment	327,216.00
10.	8th payment	1,587,685.00
11.	9th payment	235,281.00
12.	10 th Payment	85,826
13.	11 th payment	28,453
14.	Current Balance to be paid	11,548,908.00
15.	Total number of PAPs	524
16.	Number of PAPs fully compensated	278
17.	Number of PAPs paid crops and trees	175
18.	Unpaid PAPs	71

Table 22 the sample of payment schedule with details of PAPs compensated

COMPENSATION OF PROJECT AFFECTED PERSONS					
Kenyanjeru Location					
N o.	Name	Account No.	Bank	Branch	Amount
1	MAINA MUCHANGA	0030101562438	Equity	Kangem a	39,595.00
2	ESTHER NYAMBURA	0030101566351	Equity	Kangem a	194,902.00
3	NANCY WAIYEGO KARATU	005-8590-001-00289	Murata Sacco Ltd	Kangem a	124,097.00
4	STEPHEN MAINA MWANGI	0030101559538	Equity	Kangem a	35,938.00
5	STEPHEN MWANGI KIMANI	009000011617	Family Finance	Kangem a	177,025.00

6	MARGARET NJERI MWANGI	0030101555051	Equity	Kangem a	89,953.00
7	MARGARET NYAMBURA GATUKU	005-0692-003-04905	Murata Sacco Ltd	Kangem a	41,688.00
8	JAMES KARENJU KIRUBI	005-8590-001-00944	Murata Sacco Ltd	Kangem a	31,671.00
9	GATHERE GITHU	1120776910	KCB	EASTLEIGH	95,845.00
10	MAINA NJUGUNA	0030191947182	Equity	Kangem a	42,504.00
11	JOSEPH MINAI MACHAMBA	005-6902-004-02675	Murata Sacco Ltd	Kangem a	7,763.00
	TOTAL				880,981.00

A total of 71 PAPs are yet to be compensated due to various reasons. They include:

- i. Ownership disputes;
- ii. Lack of proper land ownership documents; and
- iii. Non-availability of the land owners whereby the PAPs are yet to sign the sale agreements.

Of the 71 PAPs, four of them are public institutions and therefore compensation will not be effected. The public institutions include:

Table 23 Institutional PAPs

No.	Name of Institution	Compensation Amount	Mode of Compensation
1.	County Government of Muranga	505,109.00	None
2.	Wamahiga Secondary School	272,520.00	Construction of four (4) sanitary units
3.	Kahuhia Mixed Secondary School	209,070.00	Relocation of school entrance gate in favor of the tank; Improvement of access road to the school; Construction of a double pit latrine; and Augmentation of reticulation pipeline network of the school.
4.	P.C.E.A Muthithi Dispensary	204,527.00	Plastering of one of the structures within the dispensary with a total area of 550m ²

The breakdown of the remaining 67 PAPs per location is as shown in Table 8.4

Table 24 List of pending PAPs

No	Location	No. of PAPs
1	Kenyanjeru	2

No	Location	No. of PAPs
2	Kanorero/Gakira/ Gitweku	7
3	Gitugu	0
4	Kanyenyaini	4
5	Kiairathe	23
6	Rwathia	4
7	Kayahwe	31
	Total	67

The reasons for non-payment of the 67 PAPs are broken down as follows:

- i. 47 PAPs have not signed sale agreements;
- ii. 9 PAPs do not have titles but the land parcels are in their names;
- iii. 9 PAPs have succession challenges and the land was bare i.e. did not have trees or crops
- iv. 3 PAPs co-own the affected parcels and requires consent from the co-owners;
- v. 2 parcel have disputes;
- vi. 1 parcel has caution.

Challenges

The following challenges were encountered during the implementation of the RAP:

- i. Majority of the PAPs did not have land titles thus some of the compensation money is yet to be effected to date; and
- ii. Some PAPs are yet to sign the sale agreements despite the fact that they have been informed by the area chiefs a number of times.

Outstanding safeguard concerns

1. The people who have not been compensated due to succession are not happy because it is more than 5 years since their land was taken. The majority of the PAPs who have not been compensated do not have titles. They need to be assisted to conduct succession.
2. PAPs were not represented in the grievance committee

Suggestion

AWWDA should provide the framework on how to deal with all the pending succession cases. The project affected persons should be involved in coming up with this framework. The framework should have practical solution and timeframe to resolve this problem. The PAPs should appoint their representative to the GRM committee. This committee should also play a pivotal role in fast-tracking succession issues.

Table 25 Proposed Implementation time table for pending safeguard issues

Pending cases	Action	Timeli ne In month	Responsibility center	Budget in Kshs

		S		
PAPs who have not signed sale agreements	PAPs to be traced	3	AWWDA/Chief	500,000
PAPs who do not have titles but the land parcels are in their names	PAPs be assisted to process new titles	6	AWWDA/PAP	200,000
PAPs who have succession challenges and the land was bare i.e. did not have trees or crops	AWWDA will administer the grant of easement form granted to them by the land registry in Murang'a to the PAPs to pave way for payment without following the long succession process.	9	AWWDA/Land registrar	400,000
PAPs who co-own the affected parcels and requires consent from the co-owners	The co-owners to be contacted	1	AWWDA/Chief/PAP	10,000
PAPs having disputes	PAPs to be assisted to settle the dispute	1	AWWDA/Chief	10,000
PAPs with caution on their land	PAP to be assisted to remove the caution	1	AWWDA/Chief/PAP	5,000
				1,125,000

Appendices

- i. Valuation roll
- ii. Payment schedules
- iii. Grievance log
- iv. Sample of sale agreement form
- v. RAP report
- vi. Attendance list for meetings held during RAP processes
- vii. Attendance list for meetings held during this assessment
- viii. Assessment photos

5.2.1.2 Northern collector tunnel

The Northern Collector Tunnel Phase 1 (the Project) involves a transfer of water from Maragua River, Irati River and Gikie River to Thika dam (Ndakaini dam). The proposed Northern Collector Tunnel (NCT) is located in Kangema and Kigumo Sub-Counties of Murang'a County. The Northern Collector Tunnel (NCT) Phase 1 is a proposed new raw water transfer tunnel along the eastern fringe of the Aberdare Conservation area approximately 60km North of Nairobi. The tunnel project will transfer raw water through approximately 11.8km from intakes at the

Maragua, Gikigie and Irati Rivers to an outlet at the Githika River near Makomboki trading centre, upstream of the existing Thika Reservoir. The intake points on these rivers are about 5km from the eastern edge of the Aberdare conservation area. The principal features which have necessitated land acquisition include the following:

- i. River diversion weir and related intake hydraulic structures at Maragua River (20m wide, 5m high weir including trench diversion intake, 37m long, 4m deep de-silting basin and compensation channel)
- ii. River diversion weir and related intake hydraulic structures at Gikigie River (14m wide, 3.3m high weir including trench diversion intake, 17m long, 2m deep de-silting basin and compensation channel)
- iii. River diversion weir and related intake hydraulic structures at Irati River (20m wide, 4.4m high weir including trench diversion intake, 25m long, 2m deep de-silting basin and compensation channel)
- iv. Drop shaft and connection gallery connecting the Irati intake to the main tunnel
- v. River outlet at Githika River including (Cut and cover portal outlet from the main tunnel and 20m long outfall stilling basin structure)
- vi. Main Northern Collector Tunnel Phase 1 (main tunnel) including portals, excavation, initial support and permanent concrete lining. The tunnel is approximately 11.8km long and of 3m finished internal diameter).

RAP preparation and implementation

The Resettlement Action Plan was prepared by GIBB International and was approved by the World Bank on 23/12/2014 and disclosed on 4/6/2015. It consists of a total 249 PAPs. The report contains land to be acquired as way leave, inventory of assets (structures), crops and trees and livelihoods to be affected by the project including the valuation amount and register of Project Affected Persons (PAPs). Approximately Kshs. 138, 804,331.30 was estimated as the RAP implementation budget.

Stakeholder engagement

Majority of the PAPs reported that they were involved at different stages of project implementation. The officers from AWWDA and the National government officials especially the chiefs informed the PAPs about the planned project. The PAPs were informed about the project through barazas held at the chief's compound. The PAPs indicated that their views were taken into consideration. The government assured the PAPs that the affected property will be compensated. The PAPS proposed that the local road networks be improved and they be provided with domestic water because their water was being taken to Nairobi. They agreed with the government on their needs. Construction for community water projects are on-going and the main road is also being tarmacked by the government under a separate project. There was an overall stakeholder engagement plan for all project implemented by AWWDA. For the NCT, 6 meetings were held. Communication to the PAPs and members of the public was done through chief's offices, liaison officers, and posters, announcements in churches, barazas and funerals. The details of stakeholders engaged during the RAP preparation processes are provided in the RAP report.

Valuation and compensation

Cut off dates was communicated by the RAP Consultant. The total number of PAPs is 249 broken down into 66 permanent acquisitions, 170 above the tunnels

and 13 land leased for 3yrs. The number of PAPs increased during implementation as a result of redesigning and acquisition of spoil banks. Internal updates were effected. The compensation was done at full replacement cost and no homestead was relocated. Only PAPs with legal ownership status were compensated for land. Development was compensated for all PAPs without considering land ownership status. All the PAPs were expected to sign way leave forms upon compensation. The RAP budget is Kshs. 138, 804,331.30.

The PAPs indicated that their property was properly enumerated. The initial valuation report disclosed to the PAPs who own the land above the tunnel was reduced after the government made a decision not to compensate development above the tunnel as the tunnel would be 100m deep underground and would not affect the surface crops and trees. The PAPs indicated that they were not happy with the second disclosure because they were not consulted before such a decision was arrived at. The land was compensated to those with title deeds. But those with succession cases have not been compensated. It was not clear who between the PAPs and the government is supposed to undertake the succession process including costs. Compensation was first done at 75% awaiting transfer of land and registration of way leave. The PAPs who have executed registration documents have received 100% compensation. A total of 146 PAPs have received full payments, 68 have not received any payment and 35 have received partial payment.

Table 26 A sample payment schedule

No	Land Owner	LR No.	Land Size (acres)	Amount (Ksh)	1 st Installment (75%)
1	Geoffrey Macharia Gakuya	Loc2/Makomboki/337	0.2099	830,875.00	623,156.25
2	Francis Gitonga Karanja	Loc2/Makomboki/338	0.1613	640,607.00	480,455.25
		Loc2/Makomboki/518	0.368	2,287,235.00	1,715,426.25
3	Mary Wangari Kariuki	Loc2/Makomboki/488	0.183	723,350.00	542,512.50
		Loc2/Makomboki/1132	0.261	1,031,262.00	773,446.50
4	Dr. Wilson Nguithi Mugo	Loc2/Makomboki/982	0.5986	2,375,319.00	1,781,489.25
5	Naomi Wanjiru Mwaniki	Loc2/Makomboki/1253	0.0805	318,665.00	238,998.75
6	Evans Ng'ang'a Njeri	Loc2/Makomboki/1531	0.108	424,016.00	318,012.00
7	John Karanja Mahugu	Loc2/Makomboki/1555	0.198	910,795.00	683,096.25
8	Edward Ngacah Gitonga	Loc2/Makomboki/1556	1.868	5,624,716.00	4,218,537.00
Total				15,166,840.00	11,375,130.00

Table 27 Summary of compensation status

No of Project Affected Households	Implementation status					
	Paid 100 %	Paid 75% and crops only	Not or Paid	Under Compulsory acquisition	Amount Paid	Balance as per the RAP report
66 PAHs permanent acquisitions	29	35	2	0	105,345,088.81	23,914,629.04
13 under leasing	13	0	0	0	2,090,588.45	Nil
170 PAHs above the tunnel	104	0	66	0	4,595,395.00	2,858,630.00

Compensation started in Feb 2015 and has not been finalized due to:

- i. Succession cases
- ii. Lack of ownership documents
- iii. Land disputes
- iv. Incomplete wayleave registration processes

Grievance Redress Mechanism

Through the interactions with the various stakeholders in the project, there may arise grievances, complains or questions from any of the stakeholders. As a countermeasure to this, the grievance redress mechanism was introduced.

The NCT 1 Grievance Redress Mechanism (GRM) which is structured in four levels as follows;

- i. **The Independent Panel of Experts (IPE) for mainly the external stakeholders:** The IPE in its mandate receives complaints from external stakeholders and provides responses and advice on how to close them. The email address for the IPE is in AWWDA website and they can be reached through ipe@awsboard.go.ke.
- ii. **The Project level for internal Grievance matters:** The employees can either report their grievance to the site supervisors, human resource persons or the management.
- iii. **The community level which involves receiving grievances from the communities:** This involves the use of area chiefs within the project area in receiving grievances from the community. The grievance forms have been distributed to five chiefs in Ichichi, Gacharage, Kinyona, Mairi and Makomboki. In case of a grievance, the party involved goes to the respective chief and files his/her complaint; the chief then records in the grievance form and the community liaison officer collects them from the various chief offices twice a month. After collecting the forms, they are filed and the process of resolving with the help of the supervising engineer (SE) and in some instances the Community liaison officers (CLO) or the area chiefs themselves.

Suggestion boxes that have been placed strategically at chiefs' offices i.e. in Mununga, Makomboki, Mairi, Ichichi and Kinyona Chiefs Office whereby anyone can express their views/grievances concerning the project. The suggestion boxes were last opened on 12th February 2019 and no grievance was recorded. The

contacts of contractor's Community Liaison officer (CLO) and AWWDA's CLO have also been posted in all of the chief's offices in six locations i.e. Makomboki, Mairi, Kinyona, Gacharage, Ichichi and Kiruri in case the community would like to lodge their grievances directly. The grievance file is kept at the consultant's office in Mununga.

iv. Contractor's GRM: The contractor has also developed his grievance procedure which includes:

a) Suggestion Boxes

The grievances are collected from site through suggestion boxes which are placed at each work site i.e. Makomboki, Kaanja, Irati, Gikigie and Maragua. The suggestion box is managed by the Resident Engineer who keeps the key and collects the grievances weekly. The grievances are then analysed and forwarded to the contractor for action.

b) Reporting of grievances to supervisors

The workers are encouraged to report their grievances to their immediate supervisors within each of the site for quick implementation. If this is not resolved, the grievance can be forwarded to the Human resource person or the committee.

c) Reporting of grievances through the Human Resource Office

An employee can also report a grievance directly to the Human Resource Person where the following procedures are followed:

- Opening of grievance file at the HRs' office
- Registration of Grievances-Name of complainant, site, occupation, Grievance Record (GR) No. and date received.
- Analysis of complains for details -Nature/type of complain, affected parties, root cause of complain, possible remedial actions, parties to involve
- Indicate response time,
- Communication to next level of authority in writing and leaving down office copy, if the issue is solved and closed or it is referred to higher level which may involve the Project Manager.

d) Formation of Employees Grievance Redress Committee (GRC)

Formation of a grievance committee is the second level of addressing employees' related complaints. Two committees both for Chinese and Local workers have been formed to receive and if possible solve the grievance or channel them to the right offices. Once a grievance is resolved, the complainant is asked to append his/her signature in the grievance form to signify closure.

Reported grievances during focus group discussions

Two cases with dispute on land compensation are still pending in court but the improvement has been compensated and the contractor allowed access to the land. Two PAPs have declined to execute registration documents hence not being able to receive 25% compensation balance. They are demanding to be compensated higher amounts than what was provided for in the valuation report and have since moved to court. The contractor was informed to compensate for any damage of property outside the acquired way leave but some PAPs reported that the contractor caused damages to some of their property and they have not been compensated despite having filled claim forms. The PAPs were informed

that if the contractor goes overboard, they were to fill claim forms at the chief's office. They reported that various claim forms have been filled but no solution provided to date. Some PAPs reported that the blasting work being undertaken by the contractor has caused serious cracks to their residential houses. They have already filled claim forms but no action has been taken. AWWDA indicated that they have received claim forms from PAPs and investigation is on-going to establish the cause of cracks and recommend on the actions to be taken. The blasting period was initially communicated to the PAPs but this is not being done now and it is impacting on the health of locals especially those suffering from high blood pressure. A PAP reported that a borehole was sunk for measuring water levels in her land. AWWDA indicated that this borehole was meant for ground water investigation. They noted that the complaint has been reported and the PAP would be engaged on the way forward. The PAP reported that her consent had not been sought before the borehole was sunk. One PAP also reported that there is shaft on his land but AWWDA indicated that this particular shaft was sunk after signing the lease agreement with the land owner. They promised to provide evidence of the lease. It was noted that the PAP should not expect additional compensation for land apart from the money paid for the lease as the land is only being used temporarily. A total of 37 cases on different nature of grievances had been recorded in the grievance log (see annexes).

Livelihood restoration

The projects did not change the mode of livelihood of PAPs. The PAPs have been compensated for loss of land and other assets. There was no livelihood restoration plan or programmes developed for this project. Some PAPs reported that the roads were good but are bad now and affecting the movement of their farm produce to the markets. They claim that the tunnel project has affected the tea farmers in a great deal especially during the dry seasons because underground water system has been affected and harvests have gone down. They also claimed that some boreholes have dried up. AWWDA confirmed that such claims can only be validated by carrying out research and investigations. Small food kiosks have been opened in the project area to sell food to the contractor's workers and this is a source of employment and income to most women in the project areas. Youths have also been employed in the project by the contractor. Some PAPs have spent the compensation money prudently and their living standards have improved. Some PAPs have been affected especially those paid cash -for -cash and the land section taken is not available for farming. They claimed that the money paid was not enough to buy equal portion of land. The land valuation was not based on the location of land especially those next to the road should have been compensated higher than land in the interior. A valuation expert indicated that the problem lies with the Land Board because the prices declared at the Land Board are under quoted. The valuers relied on the records in Murang'a land registry to arrive at the cost of land in the area.

Vulnerable population

No PAP required relocation assistance. The vulnerable people were compensated especially the elderly who were assisted by their kinsmen. No disable person was affected by the project.

The elderly were supported. In some cases, the sale agreements were delivered to their homes in the presence of their relatives and they were assisted to fill the documents and they received their compensations.

Labor influx

- i. Employment priority is given to local so long as one is able, willing and available
- ii. Over 90 % of the casuals are locals
- iii. The company has employed a total of 650 workers spread in all sites (50 are female, 600 are male)
- iv. Skilled employees must undergo an interview. Many of them are not from around
- v. Women are given equal opportunity when it comes to employment.
- vi. Women are paid salaries or wages without discrimination
- vii. Women are given lighter duties such as cooking, operating cranes, welding, and registration of workers as they report to work and leave.

HIV Awareness Creation

- i. Workers are trained regularly on HIV-AIDS management. Training includes free testing, counseling, information and protected sex
- ii. Trainers are engaged from Kigumo Level 3 Hospital
- iii. Training team includes a doctor, nurse, counselor and support staff
- iv. Last training happened August 2019

Safety and disaster management training

- i. Workers are trained on fire safety and first aid. It includes how to use fire extinguishers
- ii. Workers are provided with safety boots
- iii. Workers are provided with quality helmets
- iv. There is an EHS manager who deals with issues of social, safety and health (His name is Edson 0700 379030)
- v. There was one fatal accident recorded in the project

Grievance resolution within workers

- i. There is a GRM system for the contractor and the employees headed by a chairman who is an employee
- ii. There is a 16-member grievance committee. The committee is composed of the following:
 - a) EHS manager -1
 - b) Human resource manager -1
 - c) Liaison officer—1
 - d) Work representative—2/site
- iii. There is a log for recording grievances
- iv. There is a suggestion box in every site to initiate grievance reporting
- v. Unsolved issues are taken to the supervisor on site
- vi. If issues escalate they are moved to the managers for decision making

Gender Based Violence

Gender Based Violence Action plan was prepared following the guidance on the WB good practice note for addressing GBV in investment projects financing involving major civil works dated 2018. The plan includes:

1. How the project will put in place the necessary protocols and mechanisms to address the GBV risks.
2. How to address any GBV incidents that may arise

The project was initially suspended because of Sexual Exploitation Abuse and Harassment. A GBV expert was recruited to deal with the issues. There are focal persons appointed by the community in each of the location where cases of

SEAH are reported. There is GRM operator for sexual related grievances only. The focal persons report to her and she takes an appropriate action. The cases are recorded but kept confidential. The employees also have a focal person at the contractor's camp. AWWDA also has a focal person within the project area. The focal persons together form a compliance committee in which GRM operator is the convenor. There are also women's monthly meetings on SEAH/GBV where cases are discussed and reviewed.

It was reported that a worker was accused of cohabiting with a primary school pupil (minor). The case was reported to the company and the police. The police took over the case and the worker was dismissed instantly. In 2016, a female worker accused a male worker of impregnating her. The matter was reported and taken over by police. DNA tests however absolved the male worker of responsibility. Women are not discriminated against by gender in employment. Women are given light duties within their capacities and abilities. Contractor practices the principle of equal work-equal pay.

Outstanding safeguard concerns

- a) Outstanding compensation due to succession cases
- b) PAPs who have only received partial payment pending registration of wayleave
- c) PAPs with family dispute concerning land ownership
- d) PAPs were not represented in the grievance committee
- e) Outcome of investigation on the effects of blasting on the surrounding residential houses
- f) Damage caused by contractor on property which is outside the acquired wayleave

Suggestion

AWWDA should provide the framework on how to deal with all the pending succession cases. The project affected persons should be involved in coming up with this framework. The framework should have practical solution and time frame to resolve this problem. The PAPs should appoint their representative to the GRM committee. This committee should also play a pivotal role in fast-tracking succession issues and the conclusion on the investigation on the effects of blasting.

Table 28 Proposed Implementation time table for pending safeguard issues

Pending cases	Action	Timelin e In months	Responsib ility center	Budget in Kshs
PAPs who have only received partial payment pending registration	Registration of wayleave	3	AWWDA	300,000

of wayleave				
PAPs do not have titles but the land parcels are in their names	PAPs be assisted to process new titles	6	AWWDA/ PAP	200,000
Outstanding compensation due to succession cases	AWWDA will administer the grant of easement form granted too them by the land registry in Murang'a to the PAPs to pave way for payment without following the long succession process.	9	AWWDA/ Land registrar	400,000
Damage caused by contractor on property which is outside the acquired way leave	Follow-up with the contractor	1	AWWDA/ Chief/PAP	30,000
PAPs with family dispute concerning land ownership	PAPs to be assisted to settle the dispute	1	AWWDA/ Chief	10,000
Outcome of investigation on the effects of blasting on the surrounding residential houses	Conclusion of investigations and taking appropriate action including giving quick feedback to the PAPs and effecting compensation where liability has been established	6	AWWDA	500,000
				1,440,000

Appendices

- i. Valuation roll
- ii. Payment schedules
- iii. Grievance log
- iv. Sample of sale agreement form
- v. RAP report
- vi. Attendance list for meetings held during RAP processes
- vii. Attendance list for meetings held during this assessment
- viii. Assessment photos

5.2.1.3 Nairobi Bulk Water Supply: Construction of raw and treated water gravity mains

Athi Water Works Development Agency (AWWDA) through the Support of the World Bank (WB), Agence Francise de Development (AFD) and the Government of Kenya (GOK) is currently implementing the Thika dam-Kigoro-Nairobi Pipelines Project traversing Murang’a, Kiambu and Nairobi Counties.

Project Scope

The project entails laying DN 1200 steel pipelines for a total length of 54.3km.

Three resettlement actions plans were prepared for various sections of the pipeline as shown below:

- i. Thika/Ndakaini dam to Kigoro Treatment works Section (5.4Km) - The Raw Water Pipeline Traverses Makomboki, Ndakaini and Kigoro Location in Gatanga, Muranga County.
- ii. Kigoro Water Treatment works to Ngethu Junction (12.6km) - The treated water pipeline route will run from Kigoro Treatment Plant to Ngethu where it will join the existing wayleave. The pipeline of 12.6km is traversing parts of Kigoro, Ndunyu-Chege, Kiriaini, and Rwegetha and some parts in Chania -Ngorongo in Kiambu County.
- iii. Existing Nairobi Pipelines from Ngethu Junction to Gigiri reservoirs - The pipeline will run parallel to the existing pipeline from Ngethu Junction to Gigiri Reservoirs a length of 36.31km.

5.2.1.4 Thika/ Ndakaini Dam to Kigoro Treatment Works Section - 5.40km (Raw Water Pipeline)

The RAP for raw water pipeline was prepared and implemented without the approval of the Bank. The Bank however commissioned a RAP audit to establish whether the project was implemented in compliance with the World Bank safeguards procedures. The audit found out that the implementation of the project met the required social safeguards standards. Raw water section consisted of 107 PAPs and 1 Public institution. AWWDA has managed to acquire 5.2km out of 5.40km way leave. All PAPs were compensated except one who rejected valuation award and moved to the courts to seek redress. The case of this one PAP was handed over to the National Land Commission who conducted fresh valuation on the parcel. The court noted that the land acquisition process was carried in accordance with the law therefore; a judgment was issued on 1st July 2019 for the PAP to be paid according to the NLC valuation report. However, the PAP has not submitted his legal ownership documents for compensation process as he is waiting to sign the agreement for payment process. AWWDA has so far recorded 54 grievances for Kigoro Raw Water pipeline and managed to close out 53. The pending grievance is for one PAP which was being handled in court.

Table 29 Summary of the payment status for the raw water

No.	Description	No. of PAPs paid
1.	Total Number of PAPs paid fully (land, structures, trees and crops).	106
2.	PAPs not paid due to disputes of valuation award and with court case-court injunction	1

		was lifted; The lawyers (NLC, AWWDA and PAP) are currently in communication on how to go ahead with the compensation after the court ruling	
3.		PAP was not to be paid since land is considered public (Nairobi Water and Sewerage Company).	1
TOTAL NO. OF PAPs			108

Appendices

- i. The RAP audit report
- ii. Valuation roll
- iii. Grievance log
- iv. Payment schedule

5.2.1.5 Kigoro Water Works to Ngethu Junction Pipeline- 12.6km (Treated Water Pipeline)

The pipeline wayleave from Kigoro Treatment Works - Ngethu Junction is 9m traversing through farmlands for a distance of 12.6km. A Resettlement Action Plan (RAP) was prepared for the area with a total of 386 PAPs and an estimated compensation cost of Kshs. 182 Million. The report was approved by the World Bank on 15/6/2018 and disclosed on 20/6/2018. The total compensation budget and the particulars for the project affected persons for the Kigoro-Ngethu Section – 12.6km, were handed over to the NLC on May 2018 for assistance in acquisition of wayleave.

Stakeholder engagement

Majority of the PAPs reported that they were involved at different stages of project implementation. The officers from AWWDA and the National government officials especially the chiefs informed the PAPs about the planned project. The PAPs were informed about the project through Barrazas held at the compound of the chief's office. The PAPs indicated that their views were taken into consideration. The government assured the PAPs that the affected property will be compensated. Communication to the PAPs and members of the public was done through Chief's offices and liaison officers.

Valuation and compensation

The PAPs reported that the cut-off date was communicated and the assets were properly enumerated. The valuation was conducted by the National Land Commission. PAPs without title deed were paid for development. PAPs with succession cases have not been compensated but their cases are being addressed. The PAPs were compensated within 3 months after valuation. The PAPs reported that the outcome of enumeration was not communicated at the right time and National Land Commission did not explain the valuation criteria. Some PAPs eventually moved to court to contest compensation awards.

Table 30 Summary of compensation

No of PAPs	Compulsory		
	Paid 100%	Paid 75% crops only	land or Under acquisition
386 PAPs	318	42	26

Table 31 Summary of compensation status

No.	Description	No. of PAPs paid
1.	Total Number of PAPs paid fully	318
2.	Pending PAPs - Litigation (Amount at NLC in a special compensation Account)	26
3.	Pending PAPs - succession challenges and those yet to submit relevant documents	42
TOTAL NO. OF PAPs		386

Grievances Redress Mechanism

Membership to GRM

- i. Liaisons officers
- ii. Chiefs
- iii. Resident engineer
- iv. Project engineer

Grievances are reported to the chief and liaison officers. Liaison officers are staff of AWWDA recruited from the project area. Some grievances are also reported to the contractor. A suggestion box for reporting of anonymous grievances is available at the entrance of the chief's office. Forms where grievances are recorded are available at the chief's office. The liaisons officers pick the forms from the chief's office on a weekly basis and channel the grievances to the right persons for action. The grievances are addressed within two weeks and resolutions communicated to the PAPs. Grievances on compensation were addressed by NLC. Fifty-four (54) PAPs covering Kiriaini, Rwegetha and Ngethu section a distance of 2.95KM objected the NLC valuation and went to court objecting compensation process. Several hearings were held and final judgment issued on 1st July 2019. The court ordered the prompt payment to be made upon following the constitutional procedure on compulsory acquisition. Before the Judgment, 18 No of PAPS withdrew from the lawyer and were compensated. Further 10 more PAPs withdrew after the Judgment was made and have been compensated. PAPs engagement meetings are ongoing for the remaining 26 No of PAPs. Most of the grievances revolved around the contractor working outside the 9M width wayleave acquired for the project. It was reported that access has been cut by the pipes in sections where the work is on-going. The contractor is expected to restore access as soon as the works in those sections are finalized. The PAPs reported that Tea buying center roof was destroyed by the contractor and it has not been replaced. They indicated that the contractor has not replaced most of the things he destroyed and was not compensating fair rates for damages caused outside the acquired wayleave. Tractors of the contractor have destroyed foot paths and temporary crossing foot bridges have not been provided for. PAPs are not represented in the GRM. Gender parity in the GRM committee is not guaranteed as it is purely based on the gender of office holders represented in the grievances mechanism. AWWDA indicated that most of the grievances have been addressed however, in some sections where works are ongoing, the contractor has requested the PAPs to be updating jointly the list of damages and once the works are complete in the affected section, the damages will be compensated and reinstatement done on the parcel to original state. In addition, the contractor was providing temporary access roads or bridges in areas where works were ongoing. In terms of the compensation rates, the PAPs

and the contractor came to an agreement and so far no grievance have been raised concerning the agreement made.

Livelihood restoration

AWWDA reported that Livelihood restoration plan is available but has not been implemented. It will be implemented before the completion of the project. The proposed activities include training on farming methods and bee keeping. The livelihood restoration budget was prepared by social team of AWWDA. The PAPs indicated that uprooted tea in the acquired areas used to generate revenue for them. Such revenues are not available to them right now while the compensation amount has already been spent in totality.

Vulnerable

The project did not lead to total displacement to any PAP. The plan for vulnerable population was provided for in the RAP report. The elderly were assisted to sign documents which were delivered to their homes and the relatives were present to witness.

Conclusion

- i. Raw water section - almost complete for testing.
- ii. Treated water section- the remaining PAPs under lawyer engagements are ongoing
- iii. Existing pipeline - the Final draft RAP report is under review.

Outstanding safeguard concerns

- a) Outstanding compensation due to succession cases
- b) Status of compensation of 26 PAPs who had a disputes in court
- c) PAPs were not represented in the grievance committee
- d) Claims that the contractor has destroyed some of the PAP's assets
- e) Implementation of livelihood restoration programmes

Suggestion

AWWDA should provide the framework on how to deal with all the pending succession cases. The project affected persons should be involved in coming up with this framework. The framework should have practical solution and time frame to resolve this problem. The PAPs should appoint their representative to the GRM committee. This committee should also play a pivotal role in fast-tracking succession issues and the conclusion on the investigation on the claims that the contractor has not compensated some of the assets destroyed outside the wayleave.

Table 32 Proposed Implementation timetable for pending safeguard issues

Pending cases	Action	Timelin e In months	Responsi bility center	Budget in Kshs
Outstanding compensation due to succession cases	AWWDA will administer the grant of easement form granted to them by the land registry in	9	AWWDA/ Land registrar	400,000

	Murang'a to the PAPs to pave way for payment without following the long succession process.			
Damage caused by contractor on property which is outside the acquired way leave	Follow-up with the contractor	1	AWWDA/Chief/PAP	30,000
Implementation of livelihood restoration programmes	Proposed livelihood restoration programmes to be implemented	1	AWWDA	1,000,000
Status of compensation of PAPs who had a disputes in court	NLC to conclude payments as directed by the court	6	AWWDA/NLC	As per NLC valuation

Appendices

- i. Valuation roll
- ii. Payment schedules
- iii. Grievance log
- iv. Sample of sale agreement form
- v. RAP report
- vi. Attendance list for meetings held during RAP processes
- vii. Attendance list for meetings held during this assessment
- viii. Assessment photos

5.2.1.6 Existing Nairobi Pipelines Ngethu - Gigiri Reservoirs- 36.0km

This section of the pipeline is parallel to the existing Nairobi City Council wayleave of 18m for a length of 36km. The existing pipeline wayleave was part of the construction of the Third Nairobi Water supply project which was completed in 1993. Some Project Affected Persons in this section have claimed non-payment of Compensation from the Nairobi City Council. As a result, they had initially objected the valuation exercise for the extra 9m way leave to be acquired by AWWDA. Several stakeholder consultation meetings were held among AWWDA, RAP consultant, county Government officials and the Affected Persons. From the meetings held, PAPs agreed the RAP review to commence and those with grievances on the existing pipelines to be captured in the rap report. AWWDA advised the affected persons that all captured issues relating to existing pipelines will be forwarded to NLC to advice on way forward since they have the capacity to solve historical injustices. RAP preparation exercise commenced on April 2019 and final draft has been submitted for review. This section of the pipeline was not visited for the field data collection as the RAP preparation processes are ongoing.

5.2.1.7 Gatanga water supply

The region where the proposed project is to be set up is a semi urban area which is predominantly agricultural, however isolated commercial establishments have

emerged to provide housing to expanding metropolitan region of Nairobi. The affected assets are basically farmland which has been acquired as easement.

Project Activities

Conventional Treatment Systems

- a. Kiama 3000m³/day treatment plant at GPS coordinates S 00° 48'50.244" and E 036° 46' 57.456" elevation 2266.26m
- b. Kimakia 4000m³/day at GPS coordinates S 00° 48'51.870" and E 036° 46' 57.23" elevation 2256.89m
- c. Kiama and Kimakia 3000 m³/day combined system the treatment plant will be located 8km from Kiama intake and 3 Km from Kimakia intake at GPS coordinates S 00° 55'04.986"and E 036° 55' 48.970" at 1797.07m elevation at a place called Rwegetha.

Break Pressure Tanks / Storage Tanks (Ground Masonry Tanks)

- a. Gatanga Water Tank Capacity 150m³ at Gatanga Catholic Mission Premises Coordinates S 000 56' 17.7"and E 0360 57' 39.9" at 1700.30m elevation.
- b. Gakurari Shopping Centre Tank Capacity 150m³ to located within Gakurari Sec. School coordinates S 000 57' 17.202"and E 0360 57' 30.384" at 1660.11m elevation.
- c. Kirwara Tank Capacity 150m³ to be located in Kirwara Primary school coordinates S 000 55' 46.854"and E 0360 56' 34.962" at 1728.66m elevation.
- d. Gatura tank of capacity 225m³ coordinates S 000 52' 35.56"and E 0360 56' 52.26.136" at 1910.92m elevation.
- e. Proposed Ndakaini 225m³ tanks at Gitiri, 150m³ tank at Mukurwe and 150m³ at Gitemu. The proposed works will be at S 000 47'19.080" and E 0360 47' 35.362" at elevation 2283.10m.

RAP preparation and implementation

The Resettlement Action Plan was prepared and approved by the World Bank on 21/2/2014 and disclosed on 22/10/2015. It consists of 252 PAPs. The report contains land to be acquired as way leave, inventory of assets (structures), crops and trees and livelihoods to be affected by the project including the valuation amount and register of Project Affected Persons (PAPs). Approximately Kshs. 16,456,870.92 was estimated as the RAP implementation budget.

Stakeholder engagement

Majority of the PAPs reported that they were involved at different stages of project implementation. The officers from AWWDA and the National government officials especially the chiefs informed the PAPs about the planned project. The PAPs were informed about the project through Barazas held at the compound of the chief's office. The PAPs indicated that their views were taken into consideration. The government assured the PAPs that the affected property will be compensated. Communication to the PAPs and members of the public was done through chief's offices and liaison officers.

Valuation and compensation

The PAPs reported that the cut-off date was communicated and the assets were properly enumerated. The valuation was conducted by private valuers hired by

AWWDA. The status of compensation is given below. PAPs with succession cases have not been compensated but their cases are being addressed. The PAPs were compensated within 3 months after valuation. Some PAPs reported that they have only been compensated 75% of the total award. AWWDA indicated that the remaining balance for the PAPs compensation is due to finalization of succession cases and submission of copies of the titles to AWWDA for compensation purposes and registration.

Table 33 Summary of compensation

RAP Location and RAP date	No of PAPs	Paid 100%	Paid 75% land or crops only
		Approval date: 21-2-2014	252
Location: Kiama and Kimakia areas in Gatanga Sub-county.			

Grievances Redress Mechanism

Membership to GRM

- i. Liaisons officers
- ii. Chiefs
- iii. Resident engineer
- iv. Project engineer

Grievances are reported to the chief and liaison officers. Liaison officers are staff of AWWDA recruited from the project area. Some grievances are also reported to the contractor. A suggestion box for reporting of anonymous grievances is available at the entrance of the chief’s office. Forms where grievances are recorded are available at the chief’s office. The liaisons officers pick the forms from the chief’s office on a weekly basis and channel the grievances to the right persons for action. The grievances are addressed within two weeks and resolutions communicated to the PAPs. Grievances were reported to AWWDA. The forms are filled and feedback given within 1 month. No court case has been filed in this project. The PAPs reported that the intake was built closer to the bridge. The intake affects 8 parcels and there is need to fence the intake area and install a gate to protect the parcels from passers-by. The young people who go swim can drown in the intake. The PAPs reported that there is a day a body a dead body was recovered from the intake. AWWDA indicated that the area is fenced off however, the entry point along the road access to the intake, unknown persons vandalized the main gate and the matter was reported to the area chief and the security officers to take note and inform the locals. It was also agreed that Gatanga Water Supply to provide security to guard the area as they work on the replacement of another gate.

Livelihood restoration

The project did not relocate PAPs and had minimal negative impacts on their livelihoods. The PAPs were compensated for assets affected by the project.

Vulnerable

The project did not lead to total displacement to any PAP. The elderly were assisted to sign documents which were delivered to their homes and the relatives were present to witness.

Outstanding safeguard concerns

- a. Outstanding compensation due to succession cases
- b. PAPs were not represented in the grievance committee
- c. Fencing of the intake area
- d. Status of wayleave registration so that PAPs can be paid the remaining 25%

Suggestion

AWWDA should provide the framework on how to deal with all the pending succession cases. The project affected persons should be involved in coming up with this framework. The framework should have practical solution and timeframe to resolve this problem. The PAPs should appoint their representative to the GRM committee. This committee should also play a pivotal role in fast-tracking succession issues.

Table 34 Proposed Implementation timetable for pending safeguard issues

Pending cases	Action	Timeli ne In month s	Responsibi lity center	Budget in Kshs
Outstanding compensation due to succession cases	AWWDA will administer the grant of easement form granted to them by the land registry in Murang'a to the PAPs to pave way for payment without following the long succession process.	9	AWWDA/ Land registrar	400,000
Status of wayleave registration so that PAPs can be paid the remaining 25%	Fast-tracking registration	3	AWWD	300,000
Implementation of livelihood restoration programmes	Proposed livelihood restoration programmes to be implemented	1	AWWDA	1,000,000

Fencing of the intake area	Fencing	6	Gatanga water supply	200,000
----------------------------	---------	---	----------------------	---------

Appendices

- i. Valuation roll
- ii. Payment schedules
- iii. Grievance log
- iv. Sample of sale agreement form
- v. RAP report
- vi. Attendance list for meetings held during RAP processes
- vii. Attendance list for meetings held during this assessment
- viii. Assessment photos

5.2.1.8 Mwea Makima

Mwea - Makima Water Supply System is expected to draw water from Nyamindi River. Through gravity main, water will gravitate to a treatment facility around Kangu area, about 12 km from the intake and then gravitate to serve the targeted project areas in Mwea East and Mwea West Districts in Kirinyaga County, and Mbeere South District in Embu County. The project was implemented in two phases:

- i. Phase I - Construct intake, lay raw water gravity main, construct treatment works and lay transmission line from treatment works to serve Riakanau, Karaba, and Gategi areas where water Kiosks will be erected.
- ii. Phase II. Extend the pipeline from Gategi to Makima and erect storage tanks and water kiosks to serve Makima area and all the market centers along the Gategi- Makima pipeline.

Project description:

- i. Way leave width is 2m
- ii. Construction of a 16" supply pipeline
- iii. Construction of a high capacity tank (225m³) for sedimentation, storage and fluorination
- iv. 37 Km long 16" pipeline
- v. Installation of 4" pipe distribution pipe

RAP preparation processes

The RAP was prepared for this project and was implemented. RAP was approved by the World Bank on 4/8/2015 and disclosed on 22/10/2015. The cost estimation of the land acquisition and compensation of the project was Kshs. 6,000,000. The land acquired for the treatment plant was valued at KSHS. 4,000,000. There is a section of the gravity main which passed through people's farms, before it gets to the road. Compensation for these people's property was KSHS. 2,000,000 and it was out of mutual understanding between the project and the land owners. Land was acquired for treatment plant and sections of the pipelines that was laid on people's farms. The location of the intake was within the river riparian reserve. The proposed pipeline route was designed to ensure minimum interference with private properties by passing through road reserve. This means the project structures only occupied private land where technically unavoidable. These included the gravity main which must pass in people's farms before enough head is gained to allow gravity flow along the available road reserve. Temporary land acquisition for this section was done because the pipeline is underground and the only impact on the people's farms was during trenching

and backfilling. The treatment works site was two acres acquired from private owner of parcel no. Kabare/Nyangati/5064. It was the only major land that was utilized by the project and was acquired permanently for that purpose. The acquisition did not lead to resettlement of the affected family as they were already settled on another parcel of land within the area. The affected parcel was being used for farming by the family. Valuation on the land was done to ensure adequate compensation was done. All the PAPs have been compensated. The project was completed in 2016. There are no outstanding safeguards issues which require attention.

Table 35 Status of compensation

RAP Location and date	RAP	No of PAPs	Implementation status			
			Paid 100%	Paid 75% land or crops only	Not Paid	Under Compulsory acquisition
Approval date: 4-8-2015 Location: Mwea Sub-County in Kirinyaga		33	33	0	0	0

Appendices

- i. Valuation roll
- ii. Payment schedules
- iii. Grievance log
- iv. Sample of sale agreement form
- v. RAP report
- vi. Attendance list for meetings held during RAP processes
- vii. Attendance list for meetings held during this assessment
- viii. Assessment photos

5.2.2 LNWWDA PROJECTS

5.2.2.1 Suswa water supply project

Suswa Water Supply project source is a borehole no. 3 at DCK (Naivasha) where water will be pumped to a 225m³ tank at Hells gate, which will then supply water to the National park and lower Suswa community through gravity (Narasha, Oltepesi, Inkoirienito, Nkilonkosi, Enariboo). Other two boreholes supplies water to Kamere and Kwa Muhia residents. The 150/100mm diameter HDPE/GI pipeline alignment is proposed to traverse through Hells gate national park (utilizing existing route), avoid the gorge, with an approximate length of 4500m and supply water to Suswa. The project will also benefit Hells gate national park through a water supply line that will be connected to wildlife water points and park staff.

Project Activities

The proposed works are to rehabilitate the borehole and also rehabilitate and augment the Suswa water supply (54 Km pipeline) from its source (DCK borehole) to supply areas of Suswa, Kamere and Kwa Muhia.

Kamere and Kwa Muhia

- i. Minor repair works for the infrastructure (tank and pipeline) in Kwa Muhia and Kamere with extension of parallel line in Kwa Muhia.
- ii. Raising main to Kwa Muhia to isolate supply from Kamere and construction of 100m³ tank.
- iii. Training and Capacity building the existing water agencies in both Kamere and Kwa Muhia

Lower Suswa

- a) Construction of 1 No. 225m³ masonry tank at Hells gate, approximately elevation 2100 M to gravitate water to Suswa using the existing pipeline route, vehicular road, existing water way leave and avoiding the gorge altogether.

This pipeline will have 3 sections: -

- i. Section 1 - From DCK borehole 3 to the proposed 225m³ tank (Hells gate) - 3780m of DN 150 dia rising main - part of this pipeline is existing
- ii. Section 2 - From the proposed Hells gate tank 225m³ to Narasha-Iseneto; this is a 12560m of DN150 dia gravity main part of which is the existing pipeline.
- iii. Section 3 - From (Iseneto- Olesheki to Suswa - 13260m of DN 100 dia - Part of this line also exists but some sections have been vandalized and will be replaced.

The resettlement Action Plan was prepared and approved by the World Bank on 21-6-2016. The project pipeline was designed within the riparian land and existing water ways as much as possible so as to avoid or minimize relocation, and therefore resettlement and disturbances arising from land acquisition in line with the World Bank OP 4.12. Additional measures taken to reduce impact include:

- i. Water pipeline were as much as possible designed to follow water way leave (already designated) and road reserves.
- ii. A water tank was constructed in Public Institutions and Churches where land is available.

- iii. Roads for earth moving equipment were constructed along the earmarked main canal and/or existing tracks to limit social disturbances and destruction of the environment.

Suswa water project has had minimal impact on land due to the fact that there was limited acquisition of land from PAPs, most of the water pipelines pass through public land, protected areas i.e. Hells gate National park, road reserves, designated water way leaves within Suswa Kitet group ranch. However, easement was acquired where the Suswa water tank was located just below the cattle market and Communal Water Kiosk in Suswa municipal market as they are located in public land that is held in trust by Narok County Government for the Suswa Community. In this context the Narok County Government was requested to allocate one and half acre of land to cater for the tank construction, water Kiosk, cattle trough and a site office. No personal property or crops are affected in the project area.

Impact on Cultural Sites

There is a Maasai cultural site in Hells gate National Park but the location of the 225m³ storage tank is far away to the site at approximately 2 km. There are no cultural sites like shrines etc. in the project sites.

Stakeholder engagement

LVNWWDA conducted stakeholder engagement with the local communities and project beneficiaries, KWS, Suswa group ranch and county government of Narok during the project implementation period. This consultation was necessary as the project was to be implemented on public land. A summary of questions asked during stakeholder meetings are provided below.

Table 36 summary of questions asked during stakeholder meetings

Consultations with key PAPs and stakeholders PAPs	Concern/Expectation	Offer/Answer
Pauline Okode	Will project connect to all animal troughs in the park?	Only 2 troughs within pipeline network and 1 in animal dispersal area along pipeline network
Everlyne Silali	Will our houses be connected to water?	Yes in phase 2 in arrangement with WSP of project
Millicent Atieno	Any impacts of project and other	Minimal impacts, disturbance

- i. Narok County and Suswa Kitet have been supplied with water through connections to schools and Suswa market.
- ii. KWS have been compensated through connections of water to wildlife troughs in the park as well as the staff; however, this water will be metered too. A conservation fee is also another form of compensation which has been paid by LNWWDA to KWS.

Consent and memoranda on use of private and public land

a) Suswa Kitet Group Ranch Wayleave/ Easement Consent

The members of the ranch were identified and fully consulted to allow the project and its related infrastructure to pass through, under, within or use their

respective land. The minutes and resolutions on Suswa group Ranch in a meeting dated 3rd November 2015 granted the consent. The Suswa Group Ranch Management Committee granted the project a way leave/ easement consent to use its existing road reserve, demarcation boundaries and designated water way leave. The consent was duly executed by the group ranch management committee, witnessed by area chief, sub county administrator and chairman of Land Control Board Narok East Sub County. The consent instrument is annexed here in.

b) County government of Narok

The Suswa Water Supply Project Committee having been shown the land where the storage tank was to be constructed. The committee approached the ward administrator in Suswa ward and a requisition of the land was done to the County Secretary and Narok lands office through Sub County administrator for the allocation, survey and demarcation of the land below the cattle selling yard in Suswa town for the project. The letter is annexed in the report here in. The County Government of Narok granted the request and issued a letter of offer to the chief executive officer Rift Valley Water Service Board. PDPs (proposed development plans) have been issued as well as an allotment letter. The project paid Kshs. 70,000 to the County government of Narok being the total amount incurred for the acquisition of area part development Plan (PDP) for Suswa town indicating the Suswa water supply project land.

c) Kenya Wildlife Service

An MoU was signed between KWS and LVNWWDA stipulating modalities as well as registration of way leave for the pipeline. The memorandum of understating between government institutions are based on regulations, bylaws governing each of them, persons representing such organizations, minutes of meetings and fees or service exchange given that they are all under one government. Government institutions can also agree on waiving/subsidizing revenue fees for a sister organization, for instance County government doing roads, drainage in KWS Park at a lower fees and KWS subsidizing park access fees for institutions from the county visiting the park. The RAP report identified one cobbler (PAP) who even though encroached on private property was liable for compensation for his business structure and other associated loses.

Table 37 Summary of status of land public land use consent

Description	Ownership	Consent
Section 1: DCK to Hells Gate National Park	Rift Valley Water Service Board Kenya Wildlife service	Obtained
Section 2: Hells Gate National Park to Iseneto Baptist church (Suswa group Ranch)	Kenya Wildlife service Suswa group Ranch	Obtained
Section 3: Iseneto to Suswa town	Suswa group Ranch Narok County Government	Obtained

Grievance redress

The RAP report recommended that a local committee comprising of community Elders, religious leaders, women, people with disabilities and youths, area chief be constituted to be the grievance management committee to arbitrate and address any misunderstandings and conflicts given that cross-cutting issues were well understood locally. This was to save time as well. The other committee was to have members from Suswa Kitet Group Ranch committee, representatives from LNWWDA, RVWSB, Narok County Land Board and Nakuru County Land Board. Two committees will be adequate for each to address grievances from its County, however in the event of cross-county grievances; representatives from each committee will merge and address the issues. The RAP report recommended that the PIU establishes a register of grievances, which will be available at the following locations:

- i. Community Liaison Officer in Project Office in Narok (RVWSB),
- ii. Construction site.
- iii. Local administrative office (Chief, Ward Administrator)
- iv. Community land committee

The project was implemented on public land and there are no outstanding social safeguard issues to be addressed.

Appendices

- i. The modalities of acquiring the said parcel of lands
- ii. Consent from the Suswa KITET community and the minutes thereof.
- iii. Land size clearly surveyed and size indicated
- iv. Part development Plan (PDP) for Suswa town and mutation scheme plan indicating Suswa water
- v. supply project storage tank site acquired
- vi. Allotment letter to Rift Valley Water Service Board

5.2.2.2 Kapcherop Water Supply Project

Project description

The water supply intake is at Kiptargon River 18 km away from Kapcherop town to the North using existing motorable gravel road. The treatment will be by filtration and chlorination process (the clean water tank at T/Works is 150m³) and the flow to the first two tanks at Kipteber Primary School (60m³) and at Kiplegetet just in the outskirts of the centre. The other tanks each 10m³ are located at Kona 4 area, Leiwa, Kipsero, Kamakitwa and Kapkutung. The elevation analysis favours gravity based hydraulic flow. In the Phase I scheme, the T-works has capacity of 570m³/day to serve town population. The town network has pressure balancing challenge in low lying areas (low pressure zones occasioning rationing), leakage due to bursts on old pipes and some areas have not been connected. A new tank will be installed at Moi Girls to help stabilize the flows on this old network.

RAP preparation processes

A Resettlement Action Plan for this project was prepared and approved by the World Bank on 18th May, 2015. RAP was disclosed on 26th October, 2015. The cost estimation of the land acquisition and compensation of the project was Kshs. 6,210,000. The RAP report indicated that a total of 109 PAPs were affected by the project.

Stakeholder Engagement Procedures

The PAPs reported that there was better involvement of the public during the current phase of the project as compared to phase one where the public members were never engaged. The focus of phase one was on supplying water to the Kapcherop town as opposed to the indigenous community. Connection was made to the old pipeline thus reduced capacity to serve the wider community. As such, the Indigenous community complained to the World Bank in writing, hence the implementation of phase 2 of the project. In phase 2 of the project (WASSIP-AF), there was elaborate stakeholder's engagement accomplished by LVNWWDA. The project scope was designed with the input of the community and a new intake identified with the help of the community through the Water Supply Committee. Currently, there is active stakeholders' engagement through the CHEMAWASCO Board, County Government, Indigenous Community representatives, as well as the LVNWWDA. Stakeholder engagement included various site meetings and stakeholder's meetings attended by local administration including chiefs (and the DC at times) and officers from the department of agriculture. However, records of those meetings were maintained by the LVNWWDA. Communication was handled by LVNWWDA but is currently handled by the NZOWASCO customer care department. Major Communication channels to the PAPs includes, chiefs barazas, local radio station, as well as verbally at the project office. The project consultant also communicated through the provincial administration as well as phone contact and one-on-one meetings with the PAPs.

The number of PAPs compensated as per the compensation list is 109; 10 women and 99 men, whereby 67 were compensated for either land only, land and crops, or crops only for way-leave from the intake to the treatment plant and raw water main, and 42 for the distribution piping way-leave. This number includes 7 elderly PAPs, 3 widows, and none with disability. There was no relocation; only 5 PAPs had a large part of their land acquired, and one of them had to move his house from one part of his land to another.

Census and Asset Valuation for Compensation

This project is expected to have wide spread positive impacts on the overall socio-economic status and livelihood of the Sengwer in Kapcherop Division of Elgeyo Marakwet County. However, the Project will have minor negative impacts especially to those who are on the water intake, treatment works and those at the tanks with minimal effects on those on the pipeline wayleave. In this project, there was no relocation. Compensation of landowners for the intake, access road to the intake, treatment works, water tanks, and part of the pipeline was executed following negotiations and mutual agreement between the LVNWWDA and landowners (market price). Compensation included land value, Crops, trees, and other developments. LVNWWDA also compensated one local public school (Moi Girls Kapcherop) that hosts one of the storage water tanks in kind by donating a maize mill. Compensation for land was at the market rate (650,000/= per acre) whereas crops and trees were valued by officers from the ministry of agriculture and paid for separately. Further, the PAPs were allowed to harvest their crops and trees. The provincial administration was closely involved to facilitate the compensation process particularly for PAPs without documents and ensure all PAPs received their rightful shares. The compensation period was 3-4 months. Resolution of compensation related grievances was through negotiations and consensus between PAPs and the project consultants/engineer. NLC was not involved at all.

Table 38 Summary of RAP cost

Assets	Cost in Kshs.
Land	2,700,000
Crops and trees	3,510,000
Total	6,210,000

The RAP report indicated that a total of 109 land parcels affected by the project will be compensated at a cost of Kshs. 6,210,000.

Table 39 A sample of compensation schedule

No	Date	Purpose for the Land	Plot No	Land Owner	Negotiated and agreed Amount (Kshs)	Area in acres
1	15-10-10	Treatment works site	Cherangani/Kapkonyor/31	Joel Kiprono Yano	310,000.00	1.738
2	20-10-10	Pipeline	Cherangani/Kapkonyor/32	John Tanui Kosgei	130,000.00	0.771
3	29-10-10	Pipeline	Cherangani/Kapkonyor/33	John Tanui Kosgei	100,000.00	0.652
4	29-10-10	Pipeline	Cherangani/Kapkonyor/38	John Tanui Kosgei	75,000.00	0.474
5	1/11/2010	Intake	Cherangani/Kapkonyor/42	Benjamin Kiprotich Kiptoo	30,000.00	0.033
6	28-10-10	Pipeline	Cherangani/Kapkonyor/44	Christopher Kiproop Kipchumba	60,000.00	0.371
7	26-10-10	Intake and Road to Intake	Cherangani/Kapkonyor/45	Cheruiyot Chemitei	200,000.00	1.084

Grievance Redress Mechanisms

The RAP report proposed a grievance committee at the grass root level composed of:

- i. Location Chief
- ii. Sub Location Chief
- iii. Village leader
- iv. Two representatives of Project Affected Persons (1 Male and 1 Female)
- v. A representative of the implementing agency.

During the initial stage of the project, particularly Phase 1, there was no clear GRM. In fact, grievances by the community concerning the quality of work done by one of the contractors went unheeded. However, over time remedial action has been taken including selection of a water committee to represent the community interests. As such, the current Water Service Provider has representation of different communities in the region. For example, under Phase 1 (WASSIP 1), there are 13 committee members, 3 of whom are women. Furthermore, 3 of the committee members are also Board members of CHEMAWASCO, thus community grievances are escalated to the WSP. Under Phase 2 (WASSIP-AF), a community water committee of 9 was formed through public participation with priority for membership given to the people residing near the water tanks for ease of monitoring and reporting. All the 9-committee members are men but there is a plan to add 3 women to enhance gender parity. The project consultant handled all compensation related grievances and NLC had no role.

Livelihood Restoration

Although there is no major change in the status of the PAPs, the impact on the beneficiaries is significant including enhanced access to adequate and safe water, better quality of water hence reduced water borne diseases, automated operations hence sustainable water supply, growth and expansion of the local market thus availability of services closer to the people. All the PAPs have been compensated and there is no outstanding safeguard issue to be addressed.

Appendices

- i. Valuation roll
- ii. Payment schedules
- iii. Grievance log
- iv. Sample of sale agreement form
- v. RAP report
- vi. Attendance list for meetings held during RAP processes
- vii. Attendance list for meetings held during this assessment
- viii. Assessment photos

5.3 INDIGENOUS PEOPLES PLANNING FRAMEWORK FOR KAPCHEROP WATER SUPPLY AFFECTING THE SENGWER COMMUNITY

In order to secure optimal participation of the Sengwer Community during project preparation, it became clear that the project might impact on indigenous people's rights, lands, livelihoods and culture. To qualify for funding from the World Bank and following best practice documented in the World Bank's policy on indigenous peoples (OP 4.10), the Government of Kenya commissioned the preparation of Indigenous Peoples Planning Framework (IPPF) to ensure that the development process fully respects the dignity, human rights, economies, and culture of indigenous peoples and that the project and its IPPF has broad community support from the affected indigenous peoples. To achieve this, this IPPF had provisions for measures to:

- i. Avoid potentially adverse effects on the indigenous peoples' communities

- ii. When avoidance is not feasible, minimize, mitigate, or compensate for such effects
- iii. To ensure that the indigenous peoples receive social and economic benefits that is culturally appropriate and gendered as well as intergenerationally inclusive.

The GOK was required to prepare an indigenous peoples' safeguards instrument. It was determined during project preparation that the Sengwer indigenous peoples are present in some areas in the jurisdiction of LNWDA. Past experience with other donors active in the area, specifically KfW, has shown the attachment and feelings of ownership of the water resources by Sengwer communities. Thus Component 3 of WaSSIP is subject to World Bank's policy on Indigenous Peoples (OP/BP 4.10). The IPPF for this project was prepared and approved for implementation. The preparation of the IPPF included a process of interviews, discussions and consultative meetings with affected indigenous communities and civil society organizations and built upon previous IPPFs prepared for two World Bank projects active in the same area i.e., the Western Kenya Community Driven Development and Flood Mitigation project, and the Natural Resource Management project.

The IPPF sets out:

- i. The types of programs and subprojects likely to be proposed for financing under the project;
- ii. The potential positive and adverse effects of such programs or subprojects on Indigenous people;
- iii. A plan for carrying out the social assessment for such programs or subprojects;
- iv. A framework for ensuring free, prior, and informed consultation with the affected Indigenous Peoples' communities at each stage of project preparation and implementation;
- v. Institutional arrangements (including capacity building where necessary) for screening project-supported activities, evaluating their effects on Indigenous Peoples, preparing Indigenous Peoples' Plans (IPPs), and addressing any grievances; appropriate to the project;
- vi. Monitoring and reporting arrangements, including mechanisms and benchmarks
- vii. Disclosure arrangements for IPPs to be prepared under the IPPF.

The draft IPPF report was first made publicly available to project-affected groups and local NGOs in Kenya by placing a public notice in a national newspaper and making the report available at the offices of relevant government ministries. OP 4.10 further requires that the IPPF report must be disclosed as a separate and stand-alone by the Government of Kenya and the World Bank as a condition for Bank Appraisal of the WaSSIP AF. The disclosure of these documents should be both in locations where it can be accessed by the general public and local communities using the media, and at the Info Shop of the World Bank. The date for disclosure must precede the date for appraisal of the project. Following revisions, the IPPF was officially submitted to the World Bank, and the final version was disclosed prior to the Project being sent for approval to the Executive Directors of the World Bank.

History of the Sengwer indigenous people

The Sengwer live in the three administrative districts of Marakwet, West Pokot and Trans Nzoia in and along Cherangany Hills. They are estimated to be 50,000 (30,000 of them live in their traditional territories and another 20,000 in the diaspora). The Sengwer in Kapenguria and Kesogon hold the total population of the Sengwer at 70,000. They lived by hunting and bee keeping. The Sengwer in diaspora are spread in and out of Kenya living amongst Maasai (Kenya and Uganda), Pokot (Uganda and Kenya), Sabiny (Uganda), Luhya (Sirikwa Mpai, Apa Sengeli), Tugen, Ogiek, Kipsigis, Nandi, Marakwet, Keiyo, Sabaot (Kiptum 2006).

Livelihood

Before the colonial time, Sengwer used to be hunters and honey-gatherers. Following their contacts with the Arabs and the Maasai, some adopted small scale agriculture (shifting cultivation) and/or livestock rearing, but it is said that hunting remained their main source of livelihood until the 1920s. Gathering of fruits and other non-timber-forest-products is mostly done by women, while honey collection from beehives as well as from natural places such as holes in trees etc. is traditionally a male activity. It has - besides being eaten - a variety of uses.

Land tenure among the Sengwer (past and present)

Discussions with the community revealed that only about 70 per cent of them have partial ownership of land, having been issued with allotment letters by the government. The area around Kapolet forest is still gazetted as forest land not available for settlement. Those in Emboput forest are literally squatters with no papers which exposes them to regular evictions. Sengwer resettlement along the Kapolet and the Emboput forests face more problems associated with land ownership. The Sengwer in Talau location in Kapenguria (West Pokot district) are relatively better off in that they have ownership documents and have relatively made more investment on their land.

The current status of Indigenous Sengwer

The Sengwer have increasingly been restricted to areas with home 'bases' involving agriculture and livestock rearing and outlying areas where some honey gathering is still practiced. The Sengwer continue to experience expropriation of their land and restrictions on access to natural resources- especially forests and water- which have further increased their sedentarization, marginalization, social discrimination, and impoverishment. Even though they are considered, from the formal legal point of view, as citizens equal to all other Kenyans, they do not have the same access to land and other resources, protection against cattle rustlers, social and political influence, legal status and/or organizational, technical or economic capacities as other Kenyan citizens. The Sengwer can be characterized thus:

- i. The incomes of Indigenous Peoples are only about one third of those of other rural Kenyan households.
- ii. Most of them are landless, and lack legal access to natural resources or other assets for income generation.
- iii. They are ill equipped to defend even the informal, de facto access that they retain to the remnants of their 'homelands' from encroachment or restriction by outside authorities and interests
- iv. They do not have the institutional capacity or degree of empowerment that will enable them to benefit from reform processes in the forestry, water and lands sectors which are intended to give more say to

- communities in the management of resources that are central to this project.
- v. Few Indigenous Peoples hold positions in government, even at junior levels (such as chiefs and sub-chiefs).
 - vi. Further face physical and economic displacements from their lands and forests traditionally utilized by them as a source of livelihood and basis for their cultural and social survival
 - i. Lose all legal access to natural resources, which are an important source of livelihood and basis for their cultural and social system
 - ii. Continue to be harassed by cattle rustlers
 - iii. Become even more marginalized in the society and become alienated from national life
 - iv. Receive less support from governmental services
 - v. Have less capacities to defend their legal rights
 - vi. Become or remain dependent on other ethnic groups
 - vii. Lose their cultural and social identity
 - viii. Have little representation even as local government councilors, let alone at higher political levels, and are thus administered and represented by members of non-governmental groups (NGOs)

Potential Positive and Negative Impacts of the WaSSIP AF on the Sengwer

- i. Increased numbers of people with access to safe drinking water
- ii. Water availability and access will boost local economic development
- iii. Reduction in water-borne diseases
- iv. Improved nutritional status
- v. Enhanced food security
- vi. Reduced vulnerability levels
- vii. Reduced poverty levels
- viii. Improved levels of cleanliness, sanitation and hygiene
- ix. Reduced workloads and distances by women to the river to fetch water
- x. Time freed from fetching water for women is re-directed to other development initiatives
- xi. Better access to water by milk cows boosting household income and household food security
- xii. Children will no longer be left in the care of grandparents when women and girls go to fetch water
- xiii. Following agreements with the Sengwer, availability and access to social services and amenities by the Sengwer will be enhanced

Table 40 Project Impacts as expressed by Sengwer and Possible Actions considered in developing an Indigenous Peoples Plan Framework (IPPF)

Impact	Possible Actions	Responsibilities and Issues
Concentration of people and livestock around water points	Ensure adequate distribution of water points for both people and livestock	Local authorities; LNWWDA Initial costs might be higher, but in long run will be cost effective and will contribute to environmental sustainability.
Loss of water rights for the	Ensure that adequate communications between	LNWWDA

Sengwer	<p>LNWWDA and the Sengwer</p> <ul style="list-style-type: none"> • Ensure that adequate benefits and/or compensation be provided based on agreements reached through free, prior and informed consultations • Project should work with the Sengwer to ensure that any agreements made on water provision to the Sengwer are honoured 	<ul style="list-style-type: none"> • LNWWDA will implement any agreements reached under the WaSSIP framework. WaSSIP AF and the GOK would provide resources to implement these agreements. • LNWWDA will also implement any other agreements reached under the framework of other projects. In this case, the associated development partner or the GOK would be expected to provide the necessary resources.
Encroachment on and degradation of Sengwer land, territory and natural resources	<p>Providing for meaningful representation of the Sengwer in decision making in WSS development - investment planning and operations and maintenance of service provision - providing for the Sengwer the voice to shape the benefits they would like to see from the project.</p> <ul style="list-style-type: none"> • Implement IPP to re-assert Sengwer rights to land and other natural resources affected by the project. • Ensure adherence to the project Resettlement Policy Framework. • Control in-migration of people from outside the area. • They be recognized as a distinct ethnic group and accorded an identity code and given a district to appoint their own chiefs and elect their own Member of Parliament, councillors etc. This way they can take care of their territory and lands and natural resources • They are issued with collective title to all their 	<p>LNWWDA</p> <ul style="list-style-type: none"> • Strict control of migration may not be possible within the context of Kenya where there is no restriction to free movement of citizens. • The general issues of district creation and the lack of collective titles to land are on-going issues not caused by the project. The resolution of these is not within the mandate of LNWWDA but LNWWDA should inform these issues to the relevant authorities.

	land. Traditional territory of Sengwer land to be delineated and recognized to curb further and energy spent in searching for water.	
Participation of women in decision-making processes)	<p>Water service providers (WSPs) appointed by LNWWDA should include community stakeholders in the ownership and decision making to encourage the community to decide on self-management and financing of the operations and maintenance of their own infrastructure</p> <ul style="list-style-type: none"> • Increase hygiene and public health campaigns to sensitize the community • Increase funding to community water supply bodies to ensure that water is treated while at the same time ensuring that water supply facilities are rehabilitated and kept in good condition. 	<p>LVNSWB</p> <p>Capacity of women to be enhanced through exposure and leadership training so that at least one third of them can get involved in the management water service and management institutions including attending meetings convened by such institutions.</p>
Increased incidences of water-borne diseases		<p>GOK. Subsidies could be provided by the GOK to areas unable to meet operational and maintenance costs for the provision of water. LNWWDA may request the GOK for such funding.</p>
Increased marginalization and exclusion of the Sengwer	<p>Adequate communication framework to ensure Sengwer voice is heard, pending issues resolved and grievances heard</p> <p>The Sengwer should be meaningfully represented on the Water Service Providers in their areas</p> <p>Strike a balance between water supply in rural and urban areas</p>	<p>The Sengwer LNWWDA</p>

Discussion with the indigenous people during this assessment

The indigenous people were optimistic of getting water through the project, which is yet to be realized thus opting for alternative sources and almost giving up. In phase 1, the community felt alienated and ignored but has embraced the second phase that is more focused on serving the indigenous people and rural communities and has a good IPPF that need full implementation to achieve the desired impact without adverse effect on the livelihood and lifestyle of the indigenous people. Availability of water will positively impact the living standards and lifestyle of the Indigenous People further; the indigenous people have benefited through employment opportunities in the project. For example, two of the watchmen employed in the project have been retained by CHEMAWASCO, and one woman got a long-term employment with one of the contractors. Further, once the project is complete and operational, more employment opportunities will accrue. The IPPF was developed with the involvement of the indigenous people through their community representatives; mostly Sengwer-elites and professionals organized in form of Community Based Organizations (CBOs) and NGOs (For example Sengwer Indigenous Development Project -SIDP, an NGO. The project in corroboration with the IP representatives explained the content of IPPF to the local community. However, more sensitization and training is desirable to reach the larger segment of the IP.

Some of the key provisions of the IPPF meant to benefit the IP include and have been factored into the project component include:

- i. Increased water availability and access to the IP
- ii. Increased number of IP with access to safe drinking water
- iii. Enhanced food security, improved nutrition status,
- iv. Reduction in water-borne diseases, improved levels of hygiene and sanitation thus reduced mortality rate and social-economic cost associated with health
- v. Improved local economic development and reduced poverty levels
- vi. Time saving, reduced workloads and distance for women in search of water
- vii. Enhanced availability and access to social amenities by the IP
- viii. Improved access to water for animals thus better yields and enhanced household income.
- ix. Enhanced women participation and representation

Some, but not all of the provisions of the IPPF have been implemented. Some of the pending issues include provision of water points for livestock, enhanced provision of water to the entire IP community, enhancement of women empowerment, exposure and leadership training as well as engagement and representation (currently only 3/13 board members of CHEMAWASCO are women).

Recommendations

- i. There is need to speed up the sustainable implementation of the project as the IP is eagerly waiting to benefit from enhanced availability and access to safe drinking water and water point for livestock
- ii. The IP Community appeal for greater involvement in the entire cycle of projects through active engagement and effective communication on all project activities. Further, involve the IP community in project handover and allow them to conduct the respective cultural rites/prayers associated with such project completion. (The IP attribute the current siltation and

- flooding at the intake to the failure to hold cultural rites during the project handover)
- iii. There is need to incorporate environmental conservation in the projects and involve the IP community
 - iv. It is imperative to actively involve the County Government as one of the key stakeholders throughout the life cycle of projects (The CG of Elgeyo Marakwet has agreed to support the project with 3.5 million out of the 4.5 million requested by CHEMAWASCO, for de-silting of the intake, rehabilitation of water tanks, and inspection of the entire pipeline)

The IP appeal for enhanced Corporate Social Responsibility and community empowerment programmes such as scholarships to bright but needy students from the IP community.

- i. It is imperative to fully implement the IPPF
- ii. There is need to incorporate more IP and women in the Board of Management of CHEMAWASCO and other representation in the projects as well as creation of more employment opportunities.

Appendixes

- i. IPPF
- ii. Attendance list for meetings held during IPPF processes
- iii. Attendance list for meetings held during this assessment
- iv. Assessment photos

5.3.1 CWWDA PROJECTS

The following projects were visited during the ICR assessment

- i. Extension/construction of Taveta Lumi Water Supply in Taita Taveta County
- ii. Emergency Immediate Works-Lot 1: Augmentation of the Baricho Well Field and Electromechanical Works
- iii. Emergency Immediate Works-Lot 3: Kakuyuni/Gongoni and Kakuyuni/Kilifi Interconnection Pipelines
- iv. Extension/construction of Nyalani Water Supply in Kwale County
- v. Rehabilitation of the Mombasa WSP water reticulation Network-Part of Lot 2

5.3.1.1 Extension/construction of Taveta Lumi Water Supply in Taita Taveta County

CWWDA intends to improve bulk water to Taveta town and its environs, by improving the existing water supply system that has been in operation since 1983. The project will be divided into two phases, this report phase 1 which will be funded by the World Bank under WaSSIP-AF. The proposed works include:

- i. Purchase and Installation of 2 No. low lift pumps
- ii. Repair of the existing 50m long raw water Main of 6'' diameter.
- iii. Purchase of 1 No. Chlorine Dozer and installation.
- iv. Repair of the 200m³ Chlorination tank and the existing elevated steel tank.
- v. Purchase of 2No. New High lift pumps, as per design, and installation.
- vi. Purchase and laying of 5.65km epoxy coated G.I rising Main of 10'' diameter.

RAP preparation processes

The Resettlement Action Plan was prepared and approved by the World Bank on 22/6/2016 and disclosed on 15/8/2016. It consists of a total 570 PAPs. The report contains land to be acquired as way leave, inventory of assets (structures), crops and trees and livelihoods to be affected by the project including the valuation amount and register of Project Affected Persons (PAPs). Approximately Kshs. 6,099,405.00 was estimated as the RAP implementation budget. During design review by the Supervising Consultant and in line with the WB OP 4.12 guiding principle - avoid or minimise involuntary resettlement, rerouting/re-alignment was done to avoid the land that had been sub-divided. Thus land acquisition was avoided. Water catchment and road reserve land was used to lay the pipeline. The number of PAPs came down from the number which was captured in the RAP report.

Stakeholder engagement

Extensive stakeholder engagement was done during RAP preparation. Even though some PAPs reported that the project was communicated to them when the contractor was on site. They indicated that they saw the tractor dredging their land as there was no communication and work was already going on. They indicated that there was resistance and the chief and police was involved in order to restore calm and the PAPs were assured that they would get compensation for their assets. There was a baraza at the nursery to let the community know about the project. The baraza was convened after the conflicts arose on the fate of the damaged property. These conflicts were addressed via compensations. The PAPs reported that the dredging was done on a Sunday

when they were in church; they had to leave to recover what had been destroyed. This contradicts the recommendation of the RAP report which stated that any planned displacement of the project affected persons be undertaken after compensation payments have been made before any construction activities are done and in accordance with the prevailing law to reduce any conflict with the PAP.

Valuation and compensation

Valuation was done by a private valuer hired by the RAP consultant. The cut-off date was communicated to the PAPs. The entitlement matrix is provided as an appendix in the RAP report. The proposed project affects approximately 570 PAPs and 55 households, which will lose their assets. In order to mitigate the negative impacts of resettlement, the following recommendations are made: Compensation forms were provided for the PAPs to sign and submit to the chief/project office. Payment vouchers and cheques were provided by the water office. Those who refused to sign the forms were asked to do so, since the others had signed since it was a government project. The RAP report also recommended that the compensation should not only follow the prevailing market rates, but should also be associated with comprehensive consultations and negotiations with PAPs so as to minimize grievance.

Table 41 Summary of Entitlements

Asset Category Asset Type	Total Entitlement	
1	Land	193,500.00
2	Structures	3,585,500.00
3	Businesses	439,500.00
4	Trees & Crops	56,000.00
5	Fences & Gates	1,029,330.00
6	Disturbance Allowance	795,575.00
TOTALS	6,099,405.00	

RAP Implementation Cost

The RAP implementation cost was also computed taking into account administration costs and an allowance for inflation and contingencies. Bringing the total cost of the RAP to Kshs. 7,380,279.00 (seven million, three hundred and eighty thousand, two hundred and seventy-nine only), broken down in the table below.

Table 42 RAP implementation cost

No.	RAP Item	Cost in Kshs
1	Total Entitlement Costs (including 15% Disturbance)	6,099,405.00
2	RAP Administration Cost (10)% of Entitlement Cost)	609,940.00
3	Allowance for Inflation and Contingencies (10% of entitlement and administration costs)	670,934.00
Total Rap Implementation Cost		7,380,279.00

Table 43 Summary of compensation status

RAP Location and date	No of PAs	Implementation status			
		Paid 100%	Paid 75% land or crops only	Not Paid	Under Compulsory acquisition
Njoro; Ngarinashi Locations Taveta Sub-County Approved on 22-06-2016	74 (40M, 34F)	74	0	0	0

The original RAP report had provision for 570 PAs however, design review undertaken during project implementation reduced the number to 74 after a major realignment was undertaken to avoid structures and private land.

Grievance Redress Mechanism

The chief was the focal point for reporting grievances. There is a grievance log book, which is kept by the social safeguards office. Some grievances were recorded in the officers’ daily diaries. The grievances were reported through:

- i. Forms (provided by sociologists from the contractor/consultant)
- ii. Direct phone calls from the PAs to the project personnel
- iii. Records at the chief’s office
- iv. Direct reporting while in the field.

There is a RAP implementation committee which also operated the GRM system

The committee consists of;

- i. Area chiefs – Njoro, Ngarinashi Locations
- ii. Key government departments representatives
- iii. WSP representative – Zonal/Area Manager Taveta
- iv. PA representative

Livelihood restoration

The project did not displace PAs. There was no change in the mode of livelihoods. The affected assets were compensated.

Vulnerable Groups

These are made up of distinct groups of socially distressed people who might suffer disproportionately from the effects of resettlement. These may be ethnic minority/indigenous people, women headed households, the poorest (based on the poverty line), the disabled and elderly. The Consultant encountered only 3 households with vulnerable members, whose fences were affected by the project. These vulnerable groups were identified as female headed households headed by elderly widows. Fortunately, the only affected structures affected for these members were fences. The RAP report stated that these groups of people were eligible for special assistance. The elderly were assisted by their kinsmen to execute the relevant compensation documents.

Appendices

- i. Valuation roll

- ii. Payment schedules
- iii. Grievance log
- iv. Sample of sale agreement form
- v. RAP report
- vi. Attendance list for meetings held during RAP processes
- vii. Attendance list for meetings held during this assessment
- viii. Assessment photos

5.3.1.2 Rehabilitation of the Mombasa WSP water reticulation Network-Part of Lot 2

Rehabilitation and Extension of Mombasa Water Supply Works Lot 2 is a project with objectives of replacing and expanding part of the 85.45 Km of Trunk Water Distribution Mains of diameters 160mm to 1,200mm on Mombasa Island, Mombasa North Mainland, West Mainland and South Mainland.

RAP preparation processes

The Resettlement Action Plan was prepared and approved by the World Bank on 14th Oct 2014. It consists of a total 352 PAPs. The report contains land to be acquired as way leave, inventory of assets (structures), crops and trees and livelihoods to be affected by the project including the valuation amount and register of Project Affected Persons (PAPs). Approximately Kshs. 144,669,924.50 was estimated as the RAP implementation budget. During design review by the Supervising Consultant and in line with the WB OP 4.12 guiding principle - avoid or minimise involuntary resettlement rerouting/re-alignment was done to minimize the land that had been sub-divided. Thus land acquisition was avoided. Water catchment and road reserve land was used to lay the pipeline.

Stakeholder engagement

Extensive stakeholder engagement was done during RAP preparation. PAPs were consulted through barazas organised by CWWDA and the local chiefs.

Valuation and compensation

The report indicated that PAPs along the proposed lines affected by the project were mainly encroachers and they fall under category c. This notwithstanding, the aim of the RAP is to ensure that the PAPs are left not worse off than they were at the commencement of the project.

Loss of Livelihood from Loss of Business

There were no demolitions only business interruptions (closure) as the pipelines were re-aligned to avoid/minimize displacement as per guidelines of the ESMF.

Loss of Structures

In line with the OP 4.12 avoid or minimize displacement guideline, the pipeline was re-aligned/re-routed during design review by the supervising consultant and the structures which were earmarked for demolition as per the RAP were totally avoided.

Table 44 Budget Estimates for RAP Implementation

Items	Costs in Kshs.
Total entitlement	115,735,954
Implementation costs (25 %)	28,933,988.50
Total cost	144,669,924.50

Table 45 Summary of compensation status

RAP Location and RAP date	No of PAPs	Implementation status			
		Paid 100%	Paid 75% or land crops only	Not Paid	Under Compulsory acquisition
Magongo, Bamburi, Likoni, Shanzu locations Approved on 14 th Oct 2014	352 (152M;200 F)	352	0	0	0

Grievance Redress Mechanism

The chiefs were the focal point for reporting grievances. There is a grievance log book, which is kept by the social safeguards office. Some grievances were recorded in the officers' daily diaries. The grievances were reported through:

- i. Forms (provided by sociologists from the contractor/consultant)
- ii. Direct phone calls from the PAPs to the project personnel
- iii. Records at the chief's office
- iv. Direct reporting while in the field.

There is a RAP implementation committee which also operated the GRM system

The committee consists of;

- i. Area chiefs -Magongo, Bamburi, Tudor, Likoni
- ii. Key government departments representatives -
- iii. WSP representative
- iv. PAP representative

All the PAPs have been compensated.

Livelihood restoration

The project did not have total displacement/demolitions but only business interruptions. The type of business interruption involved closure of business to allow work in front of the business structures but no demolitions to warrant assistance. The PAPs reported that nobody was assisted to return to their businesses. This is because they asked to be left to return at will.

There are no outstanding safeguards issues to be addressed.

Appendices

- i. Valuation roll
- ii. Payment schedules
- iii. Grievance log
- iv. Sample of sale agreement form
- v. RAP report
- vi. Attendance list for meetings held during RAP processes
- vii. Attendance list for meetings held during this assessment
- viii. Assessment photos

5.3.1.3 Extension/construction of Nyalani Water Supply in Kwale County

CWWDA as part of its mandate intends to improve bulk water supply to Vigurungani, Puma and Ndavaya locations in Kinango Sub-County, Kwale County. This will be done through the following works:

- i. Construction of Nyalani Treatment Works
- ii. Construction of 1.70 km - 8" diameter G.I pipeline.
- iii. Construction of 38.35 km - 4" diameter uPVC pipeline.
- iv. Construction of 20 VIP Latrines.
- v. Construction of 20 Standard Water Kiosks.
- vi. Supply and installation of 20, 10m³ Plastic Tanks and appurtenances.
- vii. Construction of 3 100m³ Ground Masonry Tanks.
- viii. Construction of 2 225m³ Ground Masonry Tanks.
- ix. Construction of 2 Pump houses.
- x. Supply, installation and testing of 2 Pumping sets.

RAP preparation processes

The Resettlement Action Plan was prepared and approved by the World Bank on 28th July 2016 and disclosed on 22 October, 2016. It consists of a total 199 PAPs. The report contains land to be acquired as way leave, inventory of assets (structures), crops and trees and livelihoods to be affected by the project including the valuation amount and register of Project Affected Persons (PAPs). Approximately Kshs. 1,452,487.00 was estimated as the RAP implementation budget.

Stakeholder engagement

Extensive stakeholder engagement was done during RAP preparation. PAPs were consulted through barazas organized by CWWDA and the local chiefs.

Valuation and compensation

The Resettlement Action Plan identified 199 PAPs would be affected by the proposed project. The valuation was conducted by a private valuer hired by the RAP Consultant. In order to mitigate the impact of the project on the PAPs a budget of Kshs. 1,452,487.00 (one million four hundred and fifty-two thousand, four hundred and eighty-seven only) was set aside to implement the RAP. If implemented in accordance with the laid down laws, guidelines and procedures and any arising grievances addressed as stipulated, this RAP is adequate to clear the way leave for the proposed project. The number of PAPs came down to 11 during to re-alignment of the pipeline.

Table 46 RAP implementation cost

Items	Costs in Kshs.
Total Entitlement Costs (including 15% Disturbance)	1,200,401.75
RAP Administration Cost (10)% of Entitlement Cost)	120,040.18
Allowance for Inflation and Contingencies 132,044.19	132,044.19
Total RAP implementation cost	1,452,486.12

Table 47 Status of compensation

RAP Location and RAP date	No of PAPs	Implementation status			
		Paid 100%	Paid 75% or land crops only	Not Paid	Under Compulsory acquisition
Vigurungani; Mwandimu in Kinango Sub-county Approved 6 th October 2016	11 (8M; 3F)	11	0	0	

Grievance Redress Mechanism

The chiefs were the focal point for reporting grievances. There is a grievance log book, which is kept by the social safeguards office. Some grievances were recorded in the officers' daily diaries. The grievances were reported through:

- i. Forms (provided by sociologists from the contractor/consultant)
- ii. Direct phone calls from the PAPs to the project personnel
- iii. Records at the chief's office
- iv. Direct reporting while in the field.

There is a RAP implementation committee which also operated the GRM system

The committee consists of;

- i. Area chiefs - Vigurungani, Mwandimu Locations
- ii. Key government departments representatives - Assistant County Commissioner - Kinango, Department of Agriculture
- iii. WSP representative
- iv. PAP representative - Village Elder Mr. Mwamzuka

Impact on business and livelihood

The proposed project is in a sparsely populated area. The two centers encountered are Mwakijembe, Mwandimu and Mafundani. The shops in the center were located out of the road reserve and away from the pipeline way leave. Only one PAH with a business was encountered and was avoided through re-alignment of the pipeline to avoid displacement.

All the PAPs have been compensated. There are no outstanding safeguards issues to be addressed.

Appendices

- i. Valuation roll
- ii. Payment schedules
- iii. Grievance log
- iv. Sample of sale agreement form
- v. RAP report
- vi. Attendance list for meetings held during RAP processes
- vii. Attendance list for meetings held during this assessment
- viii. Assessment photos

5.3.1.4 Emergency Immediate Works-Lot 1: Augmentation of the Baricho Well Field and Electromechanical Works

CWWDA, as part of its mandate to provide bulk water to the population under its jurisdiction, intends to augment water supply to Mombasa, Malindi, Kilifi and Gongoni areas. This will be done through the drilling of three additional wells in the Baricho Treatment Works. The works will include:

- i. Drilling of three (3) new boreholes in the Sabaki Well field at Baricho
- ii. Laying of a new 600mm diameter, 2.4Km long water collector/transmission pipeline
- iii. Access road for the new wells and
- iv. Extension of power lines to the well field

The Resettlement Action Plan was prepared and approved by the World Bank on 19th June 2017 and disclosed on 28th 2017. It consists of a total 12 PAPs. The report contains land to be acquired as wayleave, inventory of assets (structures), crops and trees and livelihoods to be affected by the project including the valuation amount and register of Project Affected Persons (PAPs). Approximately Kshs. 2,456,832.00 was estimated as the RAP implementation budget. During design review by the Supervising Consultant and in line with the WB OP 4.12 guiding principle - avoid or minimize involuntary resettlement rerouting/re-alignment was done to avoid the land that had been sub-divided. Thus land acquisition was avoided. Water catchment and road reserve land was used to lay the pipeline. The number of PAPs came down from the number which was captured in the RAP report.

Stakeholder engagement

Extensive stakeholder engagement was done during RAP preparation. PAPs were consulted through barazas organized by CWWDA and the local chiefs.

Valuation and compensation

Table 48 Summary of RAP Implementation Budget

No.	RAP Item	Cost in Kshs.
1	Total Entitlement Costs (including 15% Disturbance)	2,030,440.00
2	RAP Administration Cost (10)% of Entitlement Cost)	203,044.00
3	Allowance for Inflation and Contingencies (10% of entitlement and administration costs)	223,348.00
Total Rap Cost	Implementation	2,456,832.00

Table 49 Summary of compensation status

RAP Location and RAP date	No of PAPs	Implementation status			
		Paid 100%	Paid 75% land crops only	Not or Paid	Under Compulsory acquisition
Langobaya in Malindi Sub-county Approved on 19th June 2017	12 (9M; 3F)	12	0	0	0

Grievance Redress Mechanism

The chiefs were the focal point for reporting grievances. There is a grievance log book, which is kept by the social safeguards office. Some grievances were recorded in the officers daily diaries. The grievances were reported through:

- i. Forms (provided by sociologists from the contractor/consultant)
- ii. Direct phone calls from the PAPs to the project personnel
- iii. Records at the chief’s office
- iv. Direct reporting while in the field.

There is a RAP implementation committee which also operated the GRM system

- i. The committee consists of;
- ii. Area chief
- iii. Key government departments representatives
- iv. WSP representative
- v. PAP representative

Appendices

- i. Valuation roll
- ii. Payment schedules
- iii. Grievance log
- iv. Sample of sale agreement form
- v. RAP report
- vi. Attendance list for meetings held during RAP processes
- vii. Attendance list for meetings held during this assessment
- viii. Assessment photos

5.3.1.5 Emergency Immediate Works-Lot 3: Kakuyuni/Gongoni and Kakuyuni/Kilifi Interconnection Pipelines Works

CWWDA as part of its mandate intends to improve bulk water supply to Kilifi and Gongoni Areas in Kilifi Sub-County and Magarini Sub-County respectively. The proposed pipeline will be 56Km long and will start at the Kakuyuni reservoir and will end at the existing reservoir at Birikani in Kilifi Town.

RAP preparation processes

The Resettlement Action Plan was prepared and approved by the World Bank on 21st June 2017 and disclosed on 20th June 2017. It consists of a total 713 PAPs. The report contains land to be acquired as way leave, inventory of assets (structures), crops and trees and livelihoods to be affected by the project including the valuation amount and register of Project Affected Persons (PAPs). Approximately Kshs. 43,343,063.00 was estimated as the RAP implementation budget. During design review by the Supervising Consultant and in line with the WB OP 4.12 guiding principle – avoid or minimise involuntary resettlement rerouting/re-alignment was done to avoid the land that had been sub-divided. Thus land acquisition was avoided. Water catchment and road reserve land was used to lay the pipeline. The number of PAPs came down from the 713 which was captured in the RAP report to 437.

Stakeholder engagement

Extensive stakeholder engagement was done during RAP preparation. PAPs were consulted through barazas organized by CWWDA and the local chiefs.

Valuation and compensation

The Resettlement Action Plan identified 713 households. In order to mitigate the impact of the project on the PAHs a budget of Kshs. 43,343,063.00 (forty-three million, three hundred and forty-three thousand, and sixty-three only) should be set aside to implement the RAP. If implemented in accordance with the laid down laws, guidelines and procedures and any arising grievances addressed as stipulated, this RAP is adequate to clear the way leave for the proposed project. The PAPs identified during the data collection exercise were eligible for compensation for the aforementioned assets. The cut-off date was established as 7th July 2015. Any developments after this date are not eligible for compensation.

Table 50 Total entitlements

Total Entitlement for each of the Pipelines Pipeline	PAHs	Entitlement Kshs.
Kakuyuni - Kilifi	468	19,322,227.00
Kakuyuni - Gongoni	245	16,498,486.00
TOTALS	713	35,820,713.00

RAP Implementation Cost

The RAP implementation cost was also computed taking into account administration costs and an allowance for inflation and contingencies. Bringing the total cost of the RAP to Kshs. 43,343,063.00 (forty-three million, three hundred and forty-three thousand, and sixty-three only), broken down in the table below.

Table 51 RAP implementation cost

No.	RAP Item	Cost
1	Total Entitlement Costs (including 15% Disturbance)	35,820,713.00
2	RAP Administration Cost (10)% of Entitlement Cost)	3,582,071.00
3	Allowance for Inflation and Contingencies	3,940,278.00
Total Rap Implementation Cost		43,343,063.00

Table 52 Summary of compensation status

RAP Location and RAP date	No of PAPs	Implementation status			
		Paid 100%	Paid 75% land or crops only	Not Paid	Under Compulsory acquisition
Kilifi, Roka, Tezo, Gede, Goshi, Malindi, Mambrui, Gongoni Approved on 21 st June 2017	437 (300M, 137F)	436	0	1	1

Grievance Redress Mechanism

The chiefs were the focal point for reporting grievances. There is a grievance log book, which is kept by the social safeguards office. Some grievances were recorded in the officers daily diaries. The grievances were reported through:

- i. Forms (provided by sociologists from the contractor/consultant)
- ii. Direct phone calls from the PAPs to the project personnel
- iii. Records at the chief's office
- iv. Direct reporting while in the field.

There is a RAP implementation committee which also operated the GRM system

- i. The committee consists of;
- ii. Area chiefs - Kilifi Township, Tezo, Ngerenya, Roka, Matsangoni, Goshi, Malindi, Mambrui, Gongoni Locations
- iii. Key government departments representatives - Assistant County Commissioners, Departments of Lands, Survey, Roads,
- iv. WSP representative- Malindi WSP and Kilifi-Mariakani WSP
- v. PAP representative

Livelihood restoration

There are 275 PAPs who owned business in various centers and require proper livelihood restoration plan to be put in place.

Table 53 the number of affected PAHs with businesses

PAPs with businesses	
Kakuyuni - Kilifi	214

Kakuyuni - Gongoni	61
Total	275

Vulnerable groups

These are made up of distinct groups of socially distressed people who might suffer disproportionately from the effects of resettlement. These may be ethnic minority/indigenous people, women headed households, the poorest (based on the poverty line), the disabled and elderly. The Consultant identified 36 households along the Kakuyuni - Kilifi pipeline and 20 households along the Kakuyuni - Gongoni pipeline with vulnerable members. These vulnerable PAPs were assisted to receive their compensation funds.

5.4 INSTITUTIONAL CAPACITY FOR THE IMPLEMENTATION OF ENVIRONMENTAL AND SOCIAL SAFEGURDS

To enable AWWDA, CWWDA and LVNWWDA to achieve the set goals as outlined in the ESMF during project implementation, the framework recommended that environment units be established in all three WWDA and funds set aside to build the institutional and human resources capacities, and 1-2 years technical assistance (TA) funded by the project to provide the units with the expertise to set the rules for sound environmental and social management. These units were to be charged with the responsibilities to provide:

- i. Guidance on preparation of comprehensive checklists of potential environmental and social impacts and their sources
- ii. Systematic procedures for participatory screening of sub-project sites and activities and the environmental and social considerations
- iii. A step-by-step approach for forecasting the main potential environmental and social impacts of the planned project activities
- iv. A typical environmental management planning process for addressing negative externalities in the course of project implementation
- v. A monitoring system for the implementation of mitigation measures
- vi. An outline of recommended capacity building measures for environmental planning

5.4.1 FINDINGS ON INSTITUTIONAL CAPACITY

The various agencies have environmental units as provided for in the ESMF. AWWDA has four staff members in the unit and both of them are sociologist. LVNWWDA has one staff with a background on water quality while CWWDA has one staff whose professional background is lab technology. The absent of trained sociologists in LVNWWDA and CWWDA constituted a serious gap in the institutional capacity to implement RAPs. There was no documentary evidence that Technical Assistance was provided to the units as provided for in the ESMF.

5.4.2.12.0 MONITORING AND REVIEWS

ESMF required a description of the mechanisms for consultation with and participation of displaced persons in planning, implementation, and monitoring to be put in place. It also had provision requiring implementing agencies to have an arrangement for monitoring and if required by independent monitors. ESMF report recommended that annual reviews be conducted at the closing of each year of the project. It was expected that annual reviews should be undertaken after implementation of the recommended action. Each review was expected to last between three to four weeks of field work (interviews, examination of

subprojects), and that the review reports were to be completed within two weeks of completing the fieldwork. The reviews process was to be funded by the Three WWDA.

5.4.3 FINDINGS ON MONITORING OF RAP IMPLEMENTATION

No internal or external monitoring report on RAP implementation was provided by all of the three agencies. At the same time, an annual review of ESMF was not conducted as provided for in the ESMF for WaSSIP.

6.0 ANNEXES

Annex 1 Assessment Tools

a. Safeguards compliance screening table.

S/ NO	Name of project	Category*	Date of Approval of EIA		Date of RAP approval by WB	date of disclosure of EIA/EIA
		(A, B or C)	W B	NEM A		
1						

i. In-depth interview schedule (To be administered to the selected PAPs)

Socio-demographic characteristics		(Tick as appropriate)
Sex		1. Male 2. Female
Age		1. Between 18-34 years 2. Between 35-65 years 3. 65 years and above
Level of education of formal education		1. Primary 2. Secondary 3. College 4. None
Marital status		1. Married 2. Single 3. Divorced 4. Separated 5. Widowed
Occupation		1. Permanent employment 2. Small scale traders 3. Subsistence farming 4. Artisan 5. Others (specify)
Pre-project monthly income		1. Below KES. 5000 2. Between KES. 5000-20,000 3. KES. 20,000 above
Current monthly income		1. Below KES. 5000 2. Between KES. 5000-20,000 3. KES. 20,000 above
Health status		1. Good health 2. Ill health
Physical fitness		1. Disabled 2. Not disabled

Compliance to safeguard requirement

You are required to rate to which each of the following statements presented below correctly describe the various social safeguard aspect of your project. The numbers represent the following; 1 - Agree 2 - Strongly Agree 3 - Disagree 4- Strongly Disagree 5- Not Sure. 6-None

(Please answer as honestly as possible. The information is for assessment of the status of implementation and outcome only)

Stakeholder engagement	1	2	3	4	5	6
Project beneficiaries were involved in the project selection						
Beneficiaries are involved in making key decisions concerning the project						
Beneficiaries participates in project activities						
Beneficiaries know where to obtain project information						
Proper communication channels have been put in place to pass information to the beneficiaries about the project						
The information given to the beneficiary is reliable						
Beneficiaries get information in a timely manner						
Women were also consulted and given equal opportunity to participate in project activities and decision making						
Census for asset valuation and compensation	1	2	3	4	5	6
The cut-off date for census was properly communicated to PAPs						
PAPs' assets were properly enumerated						
PAPs were compensated promptly						
The compensation was done at full replacement costs						
PAPs were given enough time to relocate and salvage the remaining property						
PAPs were assisted to relocate						
PAPs who hold title to their land were compensated						
PAPs without title(squatters) were compensated						
PAPs that rented land and business premises were compensated.						
Graves were compensated						
Graves were relocated by the family members of the deceased after compensation						
Graves were never relocated after compensation						
Adequate budget was set aside for compensation						
Grievances related to compensation amount were dealt with by the National Land Commission						
The commission allowed PAPs to ask for revaluation of their asset if they felt dissatisfied by the amount and asset census						
Women were given their rightful share of compensation						
Grievance redress mechanisms	1	2	3	4	5	6
The project has reliable and transparent grievance redress mechanisms						
Grievance redress mechanism is accessible to PAPs						
The grievances are reported and recorded in the grievance log books						
Grievances are promptly resolved and feedback given to the complainants						
PAPs have their representatives in the GRM committees						
Grievances related to compensation amount is addressed by the National Land Commission						

PAPs are allowed to ask for review of compensation amount by the NLC						
Women are represented in the GRM committee						
Complains from women are treated fairly by the GRM committee						
Livelihood restoration	1	2	3	4	5	6
Livelihood restoration plan was prepared and shared with all the PAPs						
All the PAPs have had their livelihoods restored back to pre-project status						
All the PAPs have had their livelihoods restored to better than pre-project status						
The Livelihoods of PAPs are worse than the pre-project level						
PAPs were trained on financial management						
PAPs were trained on farming skills						
PAPs were assisted with farming inputs						
PAPs were trained on business skills						
PAPs were employed in the project						
PAPs were compensated for loss of business and employment opportunities						
Adequate budget was set aside for livelihood restoration						
Women were given due consideration in terms of livelihood restoration						
Assistance to vulnerable PAPs	1	2	3	4	5	6
Elderly PAPs were assisted to relocate and given additional support to rebuild their livelihoods						
Sick PAPs were assisted to relocate and given additional support to rebuild their livelihoods						
Illiterate PAPs household heads were supported to relocate and accorded additional support to restore their livelihoods						
PAPs who were orphans were supported to relocate and accorded additional support to restore their livelihoods						
Women and children were assisted to relocate and given additional support to rebuild their livelihoods						
Impacts of the project on indigenous people (* Only for LVNWWDA)	1	2	3	4	5	6
The project prepared Indigenous People Plan Framework and shared with the Indigenous PAPs						
PAPs were involved in the preparation of IPPF						
The Indigenous people were trained on the provisions of IPPF						
The Indigenous people were sensitized on the provisions of IPPF						
The Plan incorporated culturally appropriate project impact mitigation measures acceptable to the indigenous people						
The plan ensured that adverse impacts on the indigenous people were mitigated						
The Indigenous people had their livelihoods fully restored						
The project provided for watering points for livestock						
The project did not interfere with sacred sites						
The project did not interfere with the grazing fields						
Women's needs were captured in the IPPF and fulfilled during the project lifecycle						

<i>Social safeguard issues related to the contractors and the local population (* Only for workers at the camp sites).</i>	1	2	3	4	5	6
The contractors prepared labor influx management plan						
The contractor provided employment priority to the local people and especially PAPs						
The contractors trained employees on HIV/AIDS issues						
The contractor prepared Occupational safety and social health management plan and shared with employees						
The contractor prepared Grievance redress mechanism to deal with gender based violence and other forms of grievances at work place						
The employees had their representatives in the grievance redress mechanism system						
Cases of sexual relationship between the contractor's employees and the locals were reported						
Women were given equal employment opportunities						
Women were not discriminated in wages and salary payments						

ii. Key Informant Interview Guide (*For project staff and other government officials who are actively involved in the project implementation)

Stakeholder engagement

1. Do you have the stakeholder engagement plan (If yes provide a copy)?
2. How many stakeholder engagement meetings were held during the entire project lifecycle (provide attendance list)?
3. Do you have a communication plan for the project (if yes provide a copy)?
4. Which communication channels do you use to communicate with PAPs

Census for asset valuation and compensation

1. How was the cut-off date for census communicated to the PAPs? (provide evidence)
2. How many PAPs were affected by the project?
3. Give the total number of women and men PAPs separately
4. Did you compensate PAPs at full replacement cost?
5. Did you assist PAPs to relocate?
6. Did you compensate PAPs without documents?
7. Did you compensate PAPs for loss of business and employment opportunities?
8. What was the compensation budget?
9. Was the compensation budget adequate?
10. How long did you take to compensate all PAPs?
11. How did you deal with grievances related to compensation amount?

Grievance redress mechanisms

1. Does the project reliable GRM structure? (if yes provide a copy)
2. Is the Grievance redress mechanism accessible to PAPs?
3. Are the grievances reported and recorded in the grievance log books?
4. How long does it take to resolve a grievance and give feedback to the complainants?
5. What is the membership composition of GRM?
6. What is the role of NLC in solving Grievances related to compensation amount?
7. Are the PAPS allowed to ask for review of compensation amount by the NLC?

8. Are women represented in the GRM committee?
9. Are the complains from women treated fairly by the GRM committee?
10. How many grievances were recorded during the project lifecycle? (provide records)
11. How many grievances were resolved or referred? (provide records)
12. How do you deal with reported cases of sexual relationships between the contractor's employees and the locals?

Livelihood restoration

1. Do you have a livelihood restoration plan? (If yes provide a copy)
2. Comment on the status of livelihood restoration for PAPs
3. Which livelihood restoration programmes did you put in place?
4. What was the budget for livelihood restoration and was it adequate?

Vulnerable PAPs

1. Do you have a management plan for vulnerable PAPs? (If yes provide a copy)
2. How many vulnerable PAPs did you have in the project?
3. Give the total number of PAPs in each category of vulnerability
4. Which kind of support did you accord to each vulnerable PAP?
5. Was there any budgetary allocation to support vulnerable PAPs?
6. Was the budget adequate?

Indigenous people (* Only for LVNWWDA)

1. Do you have Indigenous People Plan Framework? (If yes provide a copy)
2. Did you involve IP in the preparation of IPPF?
3. Have you trained and sensitized IP on the content of IPPF?
4. Which are the key provisions of the IPPF are meant to benefit the IP?
5. Have you implemented all the provisions of IPPF?
6. How much was the budget to implement IPPF?
7. Was the budget adequate?

Safeguard issues related to the contractor's site

1. Does the contractor have labour management plan? (if yes provide a copy)
2. Does the contractor give employment priority to the local people?
3. What is the percentage of the local people in the contractor's current workforce?
4. Does the contractor train employees on occupational health safety?
5. Does the contractor conduct HIV/AIDS training and awareness?
6. How does the contractor deal with gender based violence among employees and the public?
7. Does the contractor have grievance redress mechanisms for employees and members of the public?
8. What is the composition of the GRM members?
9. Does the contractor have gender mainstreaming plan for employees?
10. How many grievances have been reported and recorded? (provide records)
11. How many grievances have been resolved or referred? (provide records)

Monitoring and evaluation

1. Do you have monitoring and evaluation plan (If yes provide a copy)
2. How often do you conduct internal monitoring? (If yes provide reports)
3. Have you conducted external evaluation? (If yes provide reports)
4. What is the budget for M & E?
5. Is the budget adequate?

Institutional arrangement capacity for Social Safeguards implementation

1. Do you have the social safeguards implementation framework? (if yes provide a copy)
2. What is the institutional arrangement structure?
3. Do you have the necessary resources?
4. What is the total budget for social safeguards implementation?

iii. Focus Group Discussions Topics (to be conducted for selected groups of PAPs)

1. Stakeholder engagement procedures
2. Census and asset valuation for compensation
3. Grievance redress mechanisms
4. Livelihood restoration programmes
5. Assistance to the vulnerable PAPs
6. Impacts of project on the Indigenous people
7. Safeguard issues related to the contractor's camp

iv. Direct Observation Check List (Take photos where possible)

1. Stakeholder engagement plans
2. Stakeholder meeting lists
3. Sign posts for cut-off dates
4. Livelihood restoration programmes implemented at the project area
5. Support programmes implemented for vulnerable PAPs
6. GRM plans
7. Labour management plans
8. Grievances Log book
9. Occupational health safety sign posts at the contractor's camp
10. Training manuals and reports
11. IPPF
12. Programmes implemented at the project area for Indigenous people

Annex 2 List of Documents Reviewed

1. RAP reports for projects assessed
 - Emergency Works Baricho Lot 3-Pipelines and Reservoirs
 - Emergency Works Baricho Lot 1
 - Muranga water supply project
 - Mwea Mkima water supply project
 - Kigoro-Ngethu Pipeline project
 - Gatanga Project
 - Mombasa Lot 2-Mombasa Distribution
 - Nyalani Project
 - Thika-Kigoro-Gigiri Pipelines
 - Northern Collector Project
 - Taveta Lumi Project
 - Kapcherop Project
 - Suswa Water supply project
2. List of grievance committee members and their contacts for each project assessed
3. Grievance logs for each project assessed
4. Compensation entitlements matrix for projects assessed
5. List of PAPs as compensated for projects assessed
6. PAD
7. Livelihood restoration plan where applicable