

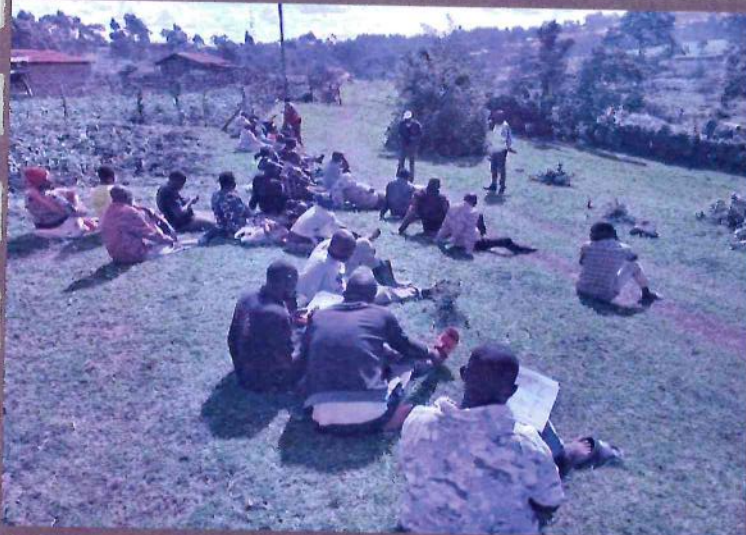
ANNEX H: RAP REPORT



THE REPUBLIC OF KENYA

CENTRAL RIFT VALLEY WATER WORKS DEVELOPMENT AGENCY

CONSULTANCY SERVICES FOR PREPARATION OF DETAILED DESIGN, TENDER DOCUMENTS
AND SUPERVISION OF WORKS FOR MAKUTANO TOWN SEWERAGE PROJECT



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**CENTRAL RIFT VALLEY WATER WORKS DEVELOPMENT AGENCY
(CRVWDA)**

CONTRACT NO. RVWSB/AfDB/KTSWSSP/C/KAPENGURIA/2017-18

RAP REPORT

July 2022

General Information

Project	Consultancy Services for Preparation of Detailed Design, Tender Documents and Supervision of Works for Makutano Town Sewerage Project
Title of the document	RAP Report for Makutano Town Sewerage Project
Reference	Contract No. RVWSB/AfDB/KTSWSSP/C/KAPENGURIA/2017-18
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Date	July 2022

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CEC WATER	West Pokot County	July 2022

VERSIONS

Version	Date	Comments
V1	July 2022	Draft RAP Report
V2	July 2022	Final RAP Report

TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
1. INTRODUCTION	6
1.1. PREFACE	6
1.2. BACKGROUND INFORMATION	6
1.3. PROJECT COMPONENTS	7
1.4. RAP JUSTIFICATION	7
1.5. RAP ACCORDING TO THE FUNDING BODY-AFDB	7
1.6. APPROACH AND METHODOLOGY	8
1.6.1. Guiding Principles	8
1.6.2. Methodology	10
1.6.3. Baseline Survey	11
1.6.4. Project Affected Persons Definition	11
1.6.5. Property Valuation	12
2. PROJECT DESCRIPTION	14
2.1. THE PROPOSED SEWERAGE PROJECT	14
2.2. ADMINISTRATIVE BOUNDARIES	14
3. BASELINE INFORMATION	16
3.1. GENERAL	16
3.2. MAKUTANO SEWERAGE SYSTEM	17
3.2.1. Location	17
3.2.2. Population	17
4. POLICY, LEGAL AND INSTITUTIONAL FRAMEWORK	18
4.1. NATIONAL LEGAL FRAMEWORK	18
4.1.1. The constitution of Kenya	18
4.2. POLICIES	26
4.2.1. National water policy 2018	26
4.3. INSTITUTIONAL FRAMEWORK	28

4.3.1.	<i>Ministry of water and irrigation</i>	28
4.3.2.	<i>Ministry of lands</i>	28
4.3.3.	<i>National environment management authority (nema).....</i>	29
4.3.4.	<i>Water resources authority (wra).....</i>	29
4.4.	INTERNATIONAL RESETTLEMENT POLICIES AND GUIDELINES	31
4.4.1.	<i>The AfDB involuntary resettlement policy.....</i>	31
5.	PUBLIC CONSULTATION AND PARTICIPATION	34
5.1.	INTRODUCTION.....	34
5.2.	STAKEHOLDERS DEFINITION	35
5.3.	PUBLIC PARTICIPATION	38
5.3.1.	<i>Issues Raised During Public Participation</i>	38
5.4.	DISCLOSURE OF RAP	41
6.	SOCIO-ECONOMIC SURVEY	42
6.1.	INTRODUCTION.....	42
6.2.	DESCRIPTIVE STATISTICS	42
6.2.1.	<i>Location.....</i>	42
6.2.2.	<i>Gender</i>	43
6.2.3.	<i>Ethnicity.....</i>	43
6.3.	HOUSEHOLD STATISTICS	44
6.3.1.	<i>Household Head Gender</i>	44
6.3.2.	<i>Household Head Age</i>	44
6.3.3.	<i>Household head education level.....</i>	45
6.3.4.	<i>Size of household</i>	45
6.3.5.	<i>Elderly household members</i>	46
6.3.6.	<i>Land Ownership</i>	47
7.	PROJECT IMPACTS.....	48
7.1.	INTRODUCTION.....	48
7.2.	IMPACTS	48
7.2.1.	<i>Loss of land.....</i>	48

7.2.2.	Loss of structures.....	49
7.2.3.	Loss of vegetation cover, crops and trees	51
7.2.4.	Public Utilities.....	53
8.	VALUATION, COMPENSATION AND ENTITLEMENTS	54
8.1.	INTRODUCTION.....	54
8.2.	VALUATION PROCEDURE AND METHODOLOGY	54
8.2.1.	Legal Procedure.....	54
8.2.2.	Fair Market Value and Replacement Cost Approach	54
8.3.	VALUATION AND COMPENSATION RESULTS	54
8.3.1.	Valuation and Compensation of Land.....	54
8.3.2.	Valuation and Compensation of Structures	55
8.3.3.	Valuation and Compensations of Trees and Crops	55
8.3.4.	Summary of Compensation Costs	56
8.4.	COMPENSATION FOR LOSSES	56
8.4.1.	Payment of compensation	56
8.5.	ELIGIBILITY, CUT-OFF DATE AND ENTITLEMENTS	58
8.5.1.	Eligibility	58
8.5.2.	Cut-Off Date	59
8.5.3.	Entitlements	60
9.	GRIEVANCE REDRESS MECHANISM	66
9.1.	INTRODUCTION.....	66
9.2.	POTENTIAL RESETTLEMENT GRIEVANCES	66
9.3.	PROPOSED GRIEVANCE MANAGEMENT AND REDRESS MECHANISM	67
9.4.	GRIEVANCE REDRESS COMMITTEE	68
9.4.1.	Composition of the committee	68
9.4.2.	Duties and responsibilities of the committee	68
10.	INSTITUTIONAL ARRANGEMENTS	70
10.1.	INTRODUCTION.....	70
10.2.	ORGANIZATION STRUCTURE	70

10.2.1. Resettlement Project Team	70
10.2.2. Resettlement Working Group (RWG)	70
10.2.3. Local RAP PAP Committees (PC)	71
11. RAP IMPLIMENTATION SCHEDULE AND BUDGET	71
11.1. INTRODUCTION.....	71
11.2. PROJECT ORGANISATIONAL STRUCTURE.....	72
11.2.1. PROJECT IMPLEMENTATION UNIT (PIU) TEAM	72
11.3. RAP IMPLEMENTATION BUDGET.....	73
11.4. RAP IMPLEMENTATION SCHEDULE	74
12. MONITORING AND EVALUATION	76
12.1. INTRODUCTION.....	76
12.2. MONITORING	76
12.2.1. Purpose.....	76
12.2.2. Monitoring Framework	77
12.2.3. Internal Monitoring	77
12.2.4. External Monitoring and Evaluation	78
12.2.5. Monitoring Indicators.....	78
13. CONCLUSION AND RECOMMENDATIONS	82
13.1. CONCLUSIONS.....	82
13.2. RECOMMENDATIONS.....	82
14. REFERENCES	84
15. ANNEXES	85

LIST OF ANNEXES

ANNEX A: Valuation of Structures affected

ANNEX B: Valuation of Trees and Crops affected

ANNEX C: Valuation of Land affected

ANNEX D: List of Key Informants Consulted

ANNEX E: Minutes of the Public Participation

ANNEX F: Public Participation Attendance List

ANNEX G: Inventory of PAPs and Property Affected

LIST OF TABLES

Table 2-1: Administrative boundaries for affected area	15
Table 2-2: Locations of proposed WWTP	15
Table 3-2: Population Projection of Makutano Town	17
Table 5-1: Stakeholders Consulted	35
Table 5-2: Public Consultation Attendance Summary (2022)	36
Table 5-3: Public Consultation Attendance Summary (2018-2020)	36
Table 5-3: Bench Marking Visit to Eldoret Water and Sanitation Company (ELDOWAS) (2018-2020)	37
Table 5-5: Community meeting at Kaplelach Koror (Lokwador's home)	38
Table 5-6: Community meeting at Nasokol (Kishaunet County Land) on 20-05-2022	38
Table 5-7: Community meeting at Sebulion village	39
Table 5-8: Community meeting at Kaplelach Koror (WWTP neighbours)	40
Table 6-1: Mean Household Size	46
Table 7-1: WWTP Land requirement	48
Table 7-2: Beneficiaries of the land for WWTPs	48
Table 7-3: WWTP site Parcel No details	49
Table 7-4: PAPs affected with the land sizes	49
Table 7-5: Table of some of the Affected Structures	50
Table 8-1: Breakdown of Compensation Costs	56
Table 8-2: Entitlement Matrix	61
Table 11-1: RAP implementation budget estimates	73
Table 11-2: RAP Implementation Schedule	75
Table 12-1: Monitoring Indicators	80

LIST OF FIGURES

Figure 2-1: Proposed Makutano Sewerage System network.....	14
Figure 2-2: Proposed Makutano WWTP	15
Figure 3- 1: Location of West Pokot County in Kenya	16
Figure 6-1: Respondent aggregated by sub-location	42
Figure 6-2: Ethnicity Statistics	43
Figure 6-3: Household Heads	44
Figure 6-4: House Hold Head by age.....	45
Figure 6-5: Education Levels of PAPs.....	45
Figure 6-6 Number of Dependants	46
Figure 6-7: Ages of the PAPs	47
Figure 6-8: Form of Land Ownership	47

LIST OF PLATES

Photo 5-1: HRM of ELDOWAS Welcoming the benchmarking team (2018-2020)	37
Photo 5-2: ELDOWAS Sewerage operator explaining the treatment process during the tour (2018-2020).....	37
Photo 5-3: Client representative addressing the meeting	38
Photo 5-4: CRVWWDA Sociologist addressing the community meeting	39
Photo 5-5: Consultant addressing the meeting	40
Photo 5-6: Discussions with the WWTP neighbours	40
Photo 7-1: Maize Planted on the proposed Conveyance route.....	52
Photo 7-2: Indigenous Trees on the proposed Conveyance route	52

LIST OF ABBREVIATIONS AND ACRONYMS

AfDB	African Development Bank
CAP	Chapter
CRVWWDA	Central Rift Valley Water Works Development Agency
CSR	Cooperate Social Responsibility
EIA	Environmental Impact Assessment
ELDOWAS	Eldoret Water and Sanitation Company Limited
EMCA	Environmental Management and Coordination Act
ESIA	Environmental and Social Impact Assessment
FC	Full Compensation
FRP	Full Resettlement Plan
GoK	Government of Kenya
GRC	Grievance Redress Committee
KES	Kenya Shillings
KFS	Kenya Forest Service
MOWS	Ministry of Water and Sanitation
Ms	Microsoft
NEMA	National Environment Management Authority
NGOs	Non-governmental Organisations
NLC	National Lands Commission
OMV	Open Market Value
OP	Operational Policy
OSHA	Occupational Safety and Health Act

PAH	Project Affected Households
PAPs	Project Affected Persons
PC	PAP Committees
PCC	Public Complaints Committee
PDPs	Project Displaced Persons
PIU	Project Implementation Unit
RAP	Resettlement Action Plan
RPT	Resettlement Project Team
RWG	Resettlement Working Group
SD	Standard Deviation
SPSS	Statistical Package for Social Scientist
TOR	Terms of Reference
UTM	Universal Traverse Mercator
WRA	Water Resources Authority
WRMA	Water Resources Management Authority
WWTP	Waste Water Treatment Plant

EXECUTIVE SUMMARY

Introduction

The *Central Rift Valley Water Works Development Agency (CRVWDA)* has engaged the services of Seureca East Africa Ltd in association with Seureca Consulting Engineers and Yooshin Engineering Corporation, to prepare **a Detailed Design, Tender Documents and Supervision of Works for Makutano Town Sewerage Project** which includes carrying out the **Resettlement Action Plan (RAP) Study**

Project Description

The proposed Sewerage project will serve Makutano Town in West Pokot County. The project is envisaged to comprise of a waste water treatment plant (WWTP) and a conveyance system for the waste water linking the towns/residential areas to the treatment site. The approximate length of the conveyance system will be about 23.45 km for the main trunks.

The location of the proposed waste water treatment plants is as illustrated in the table Below;

Project Component	WWTP Coordinates (datum WGS 84)	Sublocation Location	Village
Makutano Sewerage System	1°14'46.15"N, 35° 3'44.98"E	Lityei	Kaplelach Koror

Objectives of the Study

The objective of this study is to carry out a Resettlement Action Plan (RAP) for the proposed Makutano Sewerage Project

The Resettlement Action Plan (RAP) provides a plan for resettlement and compensation of the Project Affected Persons (PAPs) to ensure that project related losses are adequately compensated and the standard of living of the PAPs restored, or improved, with reference to the pre- project status.

Scope of Work

According to the terms of reference (TOR), the works for the proposed sewerage system shall comprise, but not limited to, the following components:

- Sewerage treatment works.
- Conveyance system.
- Administration and Laboratory buildings.
- Ancillary works.

Effectively, the consultant focused on addressing the following items to achieve the objective of the RAP study report.

Method

The RAP team undertook the study based on the following qualitative and quantitative methodologies:

- Review of secondary and primary information
- Stakeholder consultation
- Socio-Economic and Census survey
- Inventory of affected properties/assets/crops etc.
- Valuation
- Formation of a Grievance Redress Committee (GRC) to solve disputed cases
- Public consultations with Project affected Persons (PAPs)
- Meetings with GRC on disputed cases

Socio-economic Findings

77.46 % of the PAPs are from Kishaunet sub-location. The ethnicity in the project area is predominantly Pokot in all two (2) sublocations affected by the proposed project (88.7%). The survey also observed that almost all households (96.5%) were headed by males. The average household size of the PAPs was established as 3.58 persons per household (SD = 1.1).

Policy Legal and Institutional Framework

This RAP has been prepared in accordance with the national and international laws, policies and regulations. These regulations include the Constitution of Kenya and AfDBs guidelines on resettlement. These statutes regulate the legal framework regarding land use and development of infrastructure, displacement and compensation. All the statutes reviewed are outlined in Chapter 4 of this report

Public participation and consultation

Public participation and consultations were done through individual, group, and community meetings. Selection of ways to consult, and expand participation by PAPs and other stakeholders, took into consideration literacy levels prevalent in affected communities; ethnicity and cultural aspects; and practical conditions (like distance). The role of traditional political and cultural leaders, including the community elders, in the participation strategy was important.

The main objective of public consultations was to provide an avenue for the Consultant to educate the public on the project as well receive their opinions, concerns and reservations on the same.

About 71 persons will be directly affected by the proposed project

Valuation of the affected Property

RAP exercise requires that properties identified within the way leave trace are valued for compensation to the PAPs with 'legitimate interest'. The terms legitimate interest has been used to mean that even those PAPs with no recognizable legal right or claim to the asset they are occupying or using are considered eligible for compensation. Generally, valuation is done on full replacement cost and open market value. Items to be compensated within the way leave trace include farmland, structures, trees and crops.

The valuation of the affected property was carried out according to the legal procedure outlined in the Valuers Act Cap 532, which requires that a duly authorised valuer be engaged in making cost valuation of assets to be possessed by any development project.

RAP Implementation Budget

Item	Compensation Estimates (KES)
Compensation	
Compensation for Easement over Land	127,382,500.00
Compensation for Affected Structures ¹	20,806,165.00
Compensation for Trees and Crops	11,832,000.00
Sub-Total (ST1)	160,020,665.00
Technical Assistance	
Formation of Local RAP PAP Committees	700,000.00
Monitoring and Evaluation	3,000,000.00
Final Valuation and Verification of Assets	2,500,000.00
Sub-Total (ST2)	6,200,000.00
Total (ST1+ST2)	166,220,665.00
Contingency (10%)	16,622,066.50
Grand Total	182,842,731.50

Cut-Off Date

The cut-off date is the last day of the census of affected people and properties were considered by the RAP Team as the deadline. Structures or field established in the project-affected area after that date would not be eligible for compensation. This was

¹ Inclusive of inclusive of 15% disturbance allowance

explained during public consultations, census and valuation exercise and to all stakeholders in the project area. The cut-off date for the project was communicated as 11th June, 2022.

Conclusions

The report has been prepared in line with the laws of Kenya and AfDB safeguard policies on involuntary resettlement. These laws and regulations require that a RAP be prepared for all projects that anticipate acquisition of land, way leave access/easement, displacement of persons and interference with livelihoods of people.

This RAP has, to the extent possible and with the proponent assistance, identified and presented an inventory of all the people to be affected by the construction of the line and proposed a compensation package for the identified impacts.

All compensation is based on market values and full replacement cost approach. This is in line with the laws of Kenya, the AfDB safeguard policies and international best practices. Additionally, detailed negotiations with the PAPs will be carried out before compensations are made.

Recommendations

From the study findings, we recommended as follows:

1. **Consultations:** Project affected persons should be consulted continuously about the resettlement plan and implementation of the same prior to commencement of construction activities. Particular attention should be given to vulnerable groups such as the elderly, female headed households, the sick, the orphans and the squatters.
2. **Compensation:** The compensation package provided in this report is based on market rates. We recommend that same should be made before commencement of the construction through the proponent office. A minimum of three (3) months' notice should be given to the PAPs to enable them salvage all their assets. In case cash compensation would not be the preferred option, the proponent should consider other methods of compensation such as *land for land* and *structure for structure*. In the case of absentee landowners or compensation under dispute, CRVWWDA should set aside sufficient funds in an escrow account or similar financial instrument to cover unpaid compensation. Graves should also be compensated where need arises.
3. **Monitoring and Evaluation:** Monitoring and evaluation should be a continuous process. CRVWWDA will be responsible for all aspects of internal monitoring. An external consultant, if deemed appropriate,

knowledgeable in resettlement matters should be appointed to carry out external monitoring and evaluation.

4. **Community Expectations:** The PAPs raised numerous issues for the attention of the project proponent. These issues should be taken seriously to minimize complaints, grievances and potential delays. CRVWWDA should establish its RWG in order to deal with any grievances in a timely fashion.
5. **Livelihood Restoration:** A Livelihood Restoration & Improvement Program to be developed covering the PAPs and host community. It should include impacts and mitigation for impacts on host communities such as pressure on available resources etc.
6. **CSR Activities:** The proponent should undertake CSR activities in project area as form of developing good rapport with the community. This RAP proposes the following activities to be undertaken;
 - ✓ Support in agricultural activities through Government extension services and infrastructural development. In particular livestock dips, weather alerts, agricultural research and climate early warning which the socio-economic survey found to be the least accessible in project area.
 - ✓ Building of recreational facilities by project proponent, in project area there are few recreational facilities and the PAPs indicated that their inclusion in the project would be important.
7. **Project Acceptance:** The community have accepted the project and are willing to support it until its implementation. CRVWWDA is advised to speed up the compensation process and make the valuation as fair as possible as per the market costs.
8. **Residual Compensation:** CRVWWDA should consider residual compensation for the households living next to the WWTP. This will promote the relationship between the community and the project

1. INTRODUCTION

1.1. PREFACE

The Central Rift Valley Water Works Development Agency (CRVWWDA) has engaged the services of Seureca East Africa Ltd in association with Seureca Consulting Engineers and Yooshin Engineering Corporation, to prepare *a Detailed Design, Tender Documents and Supervision of Works for Makutano Town Sewerage Project* which includes carrying out the *Resettlement Action Plan (RAP) Study*

1.2. BACKGROUND INFORMATION

The project is founded on a Government of Kenya financing from the Africa Development Bank to support the Kenya Sustainable Towns Water Supply and Sanitation Programme. The programme aims at contributing to the quality health of life and reduce poverty levels of the population of Kenya through provision of water and sanitation services on a sustainable basis.

The main objective of the program is to improve the access, availability and sustainability of water supply and wastewater management services in multiple towns with a view to catalysing commercial activities, driving economic growth, improving quality of life of people and building resilience against climate variability and change. To achieve this objective the Central Rift Valley Water Works Development Agency has prioritized the construction of Makutano town Sewerage Projects under "Design and Build" component.

The proposed Sewerage project will serve Makutano Town in West Pokot County. The project is envisaged to comprise of a waste water treatment plant (WWTP) and a conveyance system for the waste water linking the towns/residential areas to the treatment site. The approximate length of the conveyance system will be about 23.45km for the main trunks.

The location of the proposed waste water treatment plant is as illustrated in the table below;

Table 1-1: Location of Waste Water Treatment Plants

Project Component	WWTP Coordinates (Datum WGS 84)	Sublocation Location	Village
Makutano Sewerage System	1°14'46.15"N, 35°3'44.98"E	Lityei	Kaplelach Koror

1.3. PROJECT COMPONENTS

The components of the proposed Sewerage project according to the terms of reference (TOR), includes, but not limited to, the following components:

- Sewerage treatment works.
- Conveyance system.
- Administration and Laboratory buildings.
- Ancillary works.

Effectively, the consultant focused on addressing the following items to achieve the objective of the RAP study report.

1.4. RAP JUSTIFICATION

The identified conveyance routes and the ultimate sites for the waste treatment works will lead to considerable physical displacement of people, loss of shelter, assets, income sources and livelihood, and possible restriction of access to economic resources. As such, the RAP is required to define the necessary resettlement and compensation framework as a result of the project's implementation in accordance with the laws of Kenya, African Development Bank's involuntary resettlement policy and guidelines and other international best practices. Additionally, the plan will ensure that all Project Affected Persons (PAPs) are adequately compensated for their loss, and that their livelihoods are restored or improved.

The primary goal of the involuntary resettlement policy is to ensure that when people must be displaced, the process is done equitably, and that they share the benefits of the project that involves their resettlement.

International best practices on involuntary resettlement also guide that project planning must avoid and minimize involuntary resettlement, and that if people must lose their settlements or livelihoods as a result of the Bank's-financed projects, they should have their standard of living improved, or at least restored. The RAP process will be guided with existing laws and best practises, and existing Government of Kenya's legislative guidelines on involuntary resettlement.

The consultancy RAP report has been developed for the conveyance system and the selected sites, that is a proposed WWTP site and a network system.

1.5. RAP ACCORDING TO THE FUNDING BODY-AFDB

Operational safeguard 2, Involuntary resettlement: land acquisition, population displacement and compensation define Resettlement as both physical and economic

displacement. Resettlement is considered involuntary when the project-affected people are not in a position to refuse the activities that result in their physical or economic displacement

The AfDB's Sustainability Guidelines makes it mandatory for a borrower to develop a Livelihood Restoration Plan and Resettlement Action Plan or Resettlement Policy Framework to be assessed at the same time as the FC measure. AfDB's Integrated Safeguard System was considered states that a full resettlement plan (FRP) should be done for any project that involves a "significant number" of people i.e. 200 or more persons who would need to be displaced with a loss of assets, or access to assets or reduction in their livelihood.

This RAP follows AfDBs Operational Safeguards 2 and shall ensure that;

- That the displaced people are meaningfully consulted and given opportunities to participate in the planning and implementation of resettlement programmes;
- That the displaced people receive significant resettlement assistance under the project, so that their standards of living, income-earning capacity, production levels and overall means of livelihood are improved beyond pre-project levels;

1.6. APPROACH AND METHODOLGY

1.6.1. GUIDING PRINCIPLES

The study was be guided by the following principles:

Principle 1: Involuntary resettlement should be avoided, or minimized. The Resettlement Action Plan (RAP) will, therefore, consider alternative options in terms of their potential environmental impacts, capital and recurrent costs, suitability under local conditions, acceptability by neighbouring land users, among other influencing factors; that will enhance the project design thereby reducing the anticipated impacts. The report will evaluate the options in terms of alignment, routing, construction methods and materials to be used among other criteria while retaining the concept design.

Principle 2: Alternatives: An important step in defining the project route is to identify conceptual viable alternatives to the project so that a viable base-case design may be realized.

Principle 3 Consultations: Displaced persons should be meaningfully consulted, and actively involved in the planning and implementation of resettlement programs. The views of the Project Affected Persons (PAPs) need to be made clear. Extensive discussions with the affected communities to document their views

will be useful in achieving amicable and feasible agreements. Consequently, the exercise will include public consultation forums to allow people who may be affected, or have an interest in the proposed project to express their views to inform the RAP process.

The consultant established the methodology for public consultation ratified by the client.

To support the successful reestablishment of affected property and livelihoods, the following activities were undertaken;

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

Principle 4: Establishment of a pre-resettlement baseline data. This will be achieved through a census survey detailing the affected households and prepare an inventory of affected assets.

Principle 5: Assistance in relocation must be made available. The project proponent will guarantee the provision of any necessary compensation for people whose fields will be disturbed to make way for the planned construction works, or any other disturbances of productive land associated with the project in proportion to their loss.

Principle 6: A fair and equitable set of compensation options must be negotiated. The project proponent will pay for structures, land and trees that will be disturbed according to set rates.

Principle 7: Resettlement must take place as a development that ensures that Project Affected Persons benefit. Where practical, employment and sub-contracting opportunities that will arise from the project will be made available to the affected population. Members of vulnerable groups are often not able to make their voice heard effectively, and account will be taken of this in the consultation and planning processes, as well as in establishing grievance procedures. They are often physically weaker, and may need special help in the relocation/disturbance phase. In particular, female-headed households may lose out to more powerful households when assets will be demolished to make way for the transmission line. This will entail ensuring that the pre-resettlement database specifically identifies vulnerable social groups and makes provision for them to be included in consultative forum.

Principle 8: Vulnerable Groups. The RAP report will take special notice of the vulnerable groups with the aim of capturing their views so as to ensure that they are catered for. A special database will be prepared to this effect.

Principle 9: Resettlement must be seen as an upfront project cost: Experience across the world shows that unless resettlement is built in as an upfront project cost, it tends to be under budgeted as it tends to be seen as peripheral to the overall project. The project proponent should therefore ensure that compensation costs, as well as those resettlement costs that fall within their scope of commitment, are incorporated into the overall project budget as upfront costs.

Principle 10: An independent monitoring and grievance procedure must be in place: There will be a setup of internal and external monitoring mechanism and a grievance procedure. The report will develop terms of reference for external monitoring.

1.6.2. METHODOLOGY

The RAP Exercise was guided by the following qualitative and quantitative methodologies:

- Review of secondary information
- Collection of primary information
- Stakeholder consultation
- Socio-Economic and Census survey
- Inventory of affected properties/assets/crops etc.
- Valuation
- Formation of a Grievance Redress Committee (GRC) to solve disputed cases
- Public consultations with Project affected Persons (PAPs)
- Meetings with GRC on disputed cases

The basis of valuation is the local legislative standards to the extent that they comply and do not conflict with AfDB Involuntary Resettlement Policy. The basis of valuation under the local legislation is The Land Act No. 6 of 2012 and The Valuers Act Cap 532. Act No. 6 requires the NLC to formulate rules to guide valuation for compulsory acquisition purposes. However, the contemplated regulations have not been published

and hence the valuation relied on the provisions of the new repealed Land Acquisition Act Cap 295 of the Laws of Kenya. This was based on the following:

- "market value" of the land as at the date of publication in the Gazette of the notice of intention to acquire the land;
- damage sustained or likely to be sustained by persons interested at the time of the Commissioner's taking possession of the land by reason of severing the land from his other land;
- damage sustained or likely to be sustained by persons interested at the time of the Commissioner's taking possession of the land by reason of the acquisition injuriously affecting his other property, whether movable or immovable, in any other manner or his actual earnings;
- if, in consequence of the acquisition, any of the persons interested is or will be compelled to change his residence or place of business, reasonable expenses incidental to the change;
- damage genuinely resulting from diminution of the profits of the land between the date of publication in the Gazette of the notice of intention to acquire the land and the date the Commissioner takes possession of the land; and
- additional 15% to the market value, by way of compensation for disturbance to the structures displaced.

1.6.3. BASELINE SURVEY

The establishment of the social profile of the project affected people and project area in accordance with the requirements for involuntary resettlement was done through a socio-economic survey.

The RAP team conducted a socio-economic baseline survey of project affected households. Structured questionnaires were administered by a team of research assistants under supervision by a Resettlement Expert/Sociologist. The questionnaires were then analysed using SPSS and MS Excel.

1.6.4. PROJECT AFFECTED PERSONS DEFINITION

The Project Affected Persons (PAPs) entailed all persons whose structures, livelihood and assets would be affected either in part, or fully by the project and project related activities, and would be eligible for compensation. Project Affected households are groups of PAPs in one household and where one or more of its members are directly

affected by the proposed project. Vulnerable groups were identified as those with aged household members, disabled members, children headed households and women headed households, and would be eligible for additional support.

PAPs were identified through field visits, Sensitization meetings with the local leadership including the area local administration. This was to disseminate information on the RAP study and project information in general and also collect their views and concerns on the project. This was done in light of the requirements to have a planning and decision-making process that involves the community.

The meetings covered the project planning timetable, qualification for eligibility explained, and PAPs' rights and grievances procedures laid down. The meetings focused on awareness creation about PAPs and procedures for grievances established. The purposes of the meetings were to sensitize the PAPs on the RAP, and thus minimize anxiety and conflicts consequently allowing them to provide truthful information regarding the RAP.

1.6.5. PROPERTY VALUATION

The Kenyan law recognizes compensation for loss of property due to implementation of development projects. The property normally includes land, houses, crops and trees. It also recommends a fair compensation for loss of property. The Government has established a compensation principle as set out in Land Act (2012) and that it is compensation for loss of property as paid at market value. Property loss under the proposed project falls under business structure and loss of livelihood.

It is expected that the RAP should be implemented within a period of 2 years. Implementation of the RAP beyond the 2-year period will be viewed as unprocedural and will prompt an updated RAP study. This is due to interference with the PAPs land use on the basis of the project and cut-off dates.

1.6.5.1. LAND

The basis of valuation is the local legislative standards to the extent that they comply and do not conflict with AfDB Involuntary Resettlement Policy. The basis of valuation under the local legislation is the Land Act No. 6 of 2012 and the Valuers Act Cap 532. The Land Act No. 6 of 2012 requires the NLC to formulate rules to guide valuation for compulsory acquisition purposes. However, the contemplated regulations have not been published and hence the valuation relied on the provisions of the new repealed Land Acquisition Act Cap 295 of the Laws of Kenya.

1.6.5.2. CROPS AND TREES

The value of crops, plants, trees and related improvements was determined by use of income capitalization approach. Under this approach, the income earning ability of the asset being valued is ascertained and capitalized using a market-driven discount rate for the remaining economic life of the asset. The productivity of each crop and the sale price per relevant unit of measurement was ascertained from discussions and review of records from marketing agents and the Ministry of Agriculture.

1.6.5.3. STRUCTURES

The method used was the Gross Replacement Value method that evaluates the current cost of replacing an asset at current market value. The approach entails the measuring of the improvements (buildings, site works) to which the appropriate construction cost are applied, resulting in the new replacement (or reproduction) cost.

The structures were classified as:

- Permanent
- Semi-permanent
- Temporary/movable

1.6.5.4. LIVELIHOOD

In the project area, pastoralism is the main source of livelihood. Other sources of livelihood in the project area include business and formal employment. Most businesses are small scale, retailing in household wares.

Livelihood affected in the project area can be divided into two categories:

- Permanent loss of livelihood will occur to those mainly with land in the project area that will be acquired for the proposed project. The acquired land might be agricultural (hence loss of farming as an income).
- Temporary loss of livelihood will occur to people whose land will not be acquired however their livelihood source will be affected by the proposed project. These induced impacts are therefore temporary in nature. This RAP recognizes that some of these PAPs get their sustenance from the project area however, they will not be relocated hence will not permanently lose their livelihood.

2. PROJECT DESCRIPTION

2.1. THE PROPOSED SEWERAGE PROJECT

The proposed Sewerage project will serve Makutano town in West Pokot County. The project is envisaged to comprise of a waste water treatment plant (WWTP) and a conveyance system for the waste water linking the towns/residential areas to the treatment site. The approximate length of the conveyance system will be about 23.45 km for the main trunks.

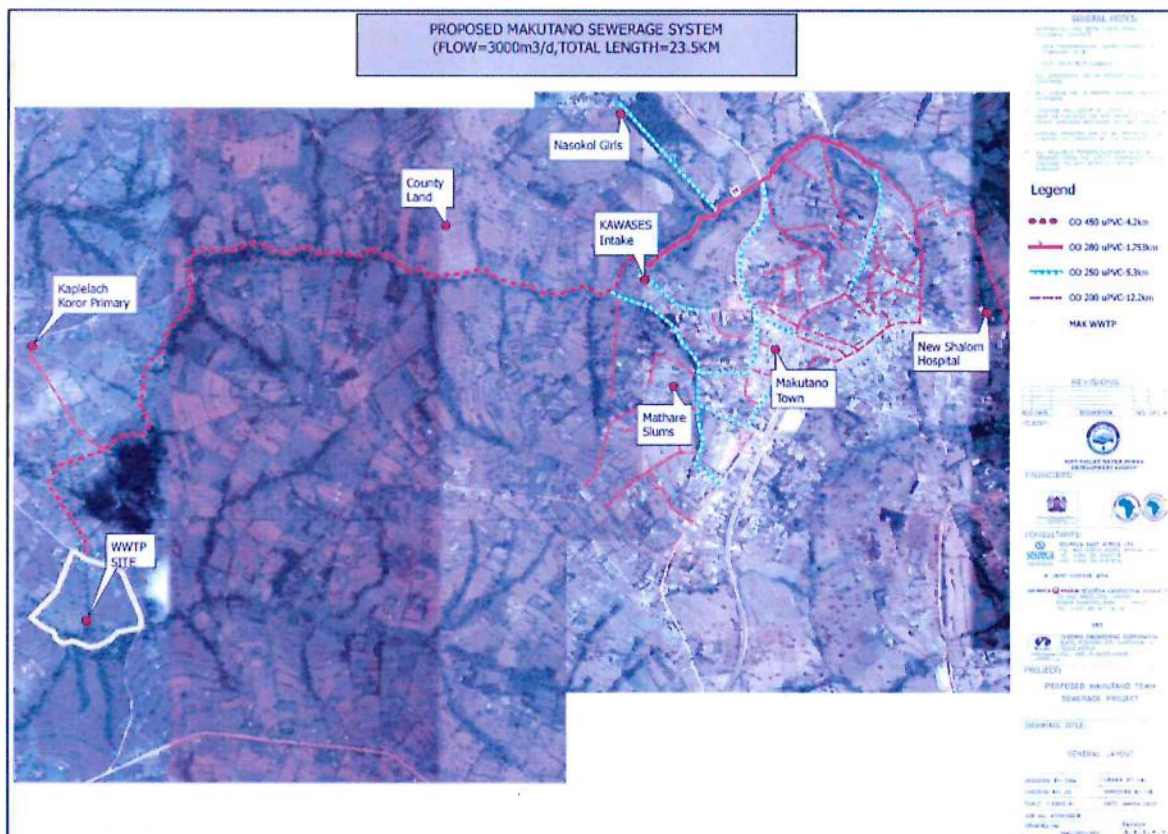


Figure 2-1: Proposed Makutano Sewerage System network

The works for the proposed sewerage system shall comprise, but not limited to, the following components:

- Sewerage treatment works.
- Conveyance system.
- Administration and Laboratory buildings.
- Ancillary works

2.2. ADMINISTRATIVE BOUNDARIES

The following table shows the various administrative units affected with the proposed project.

Table 2-1: Administrative boundaries for affected area

COUNTY	SUBCOUNTY	LOCATION
West Pokot County	Mnagei	Kishaunet

The location of the proposed waste water treatment plants is as illustrated in the table 2-2 below;

Table 2-2: Locations of proposed WWTP

Project Component	WWTP Coordinates (Datum WGS 84)	Sublocation Location	Village
Makutano Sewerage System	1°14'46.15"N, 35° 3'44.98"E	Lityei	Kaplelach Koror

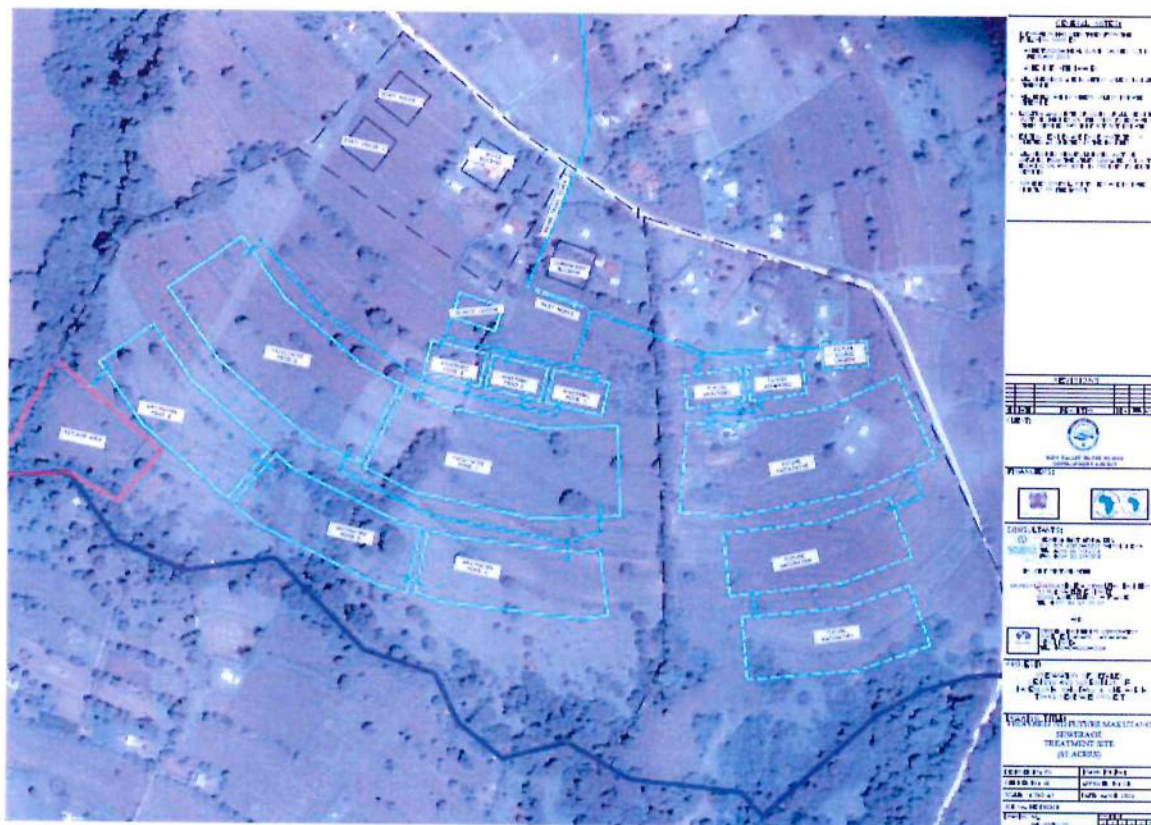


Figure 2-2: Proposed Makutano WWTP

3. BASELINE INFORMATION

3.1. GENERAL

West Pokot County is one of the 14 Counties in the Rift Valley region. It is situated in the north rift along Kenya's Western boundary with Uganda border. It borders Turkana County to the North and North East, Trans Nzoia County to the South, Elgeyo Marakwet County and Baringo County to the South East and east respectively. The County lies within Longitudes 34° 47' and 35° 49' East and Latitude 1° and 2° North. The County covers an area of approximately 9,169.4 km² stretching a distance of 132 km from North to South.

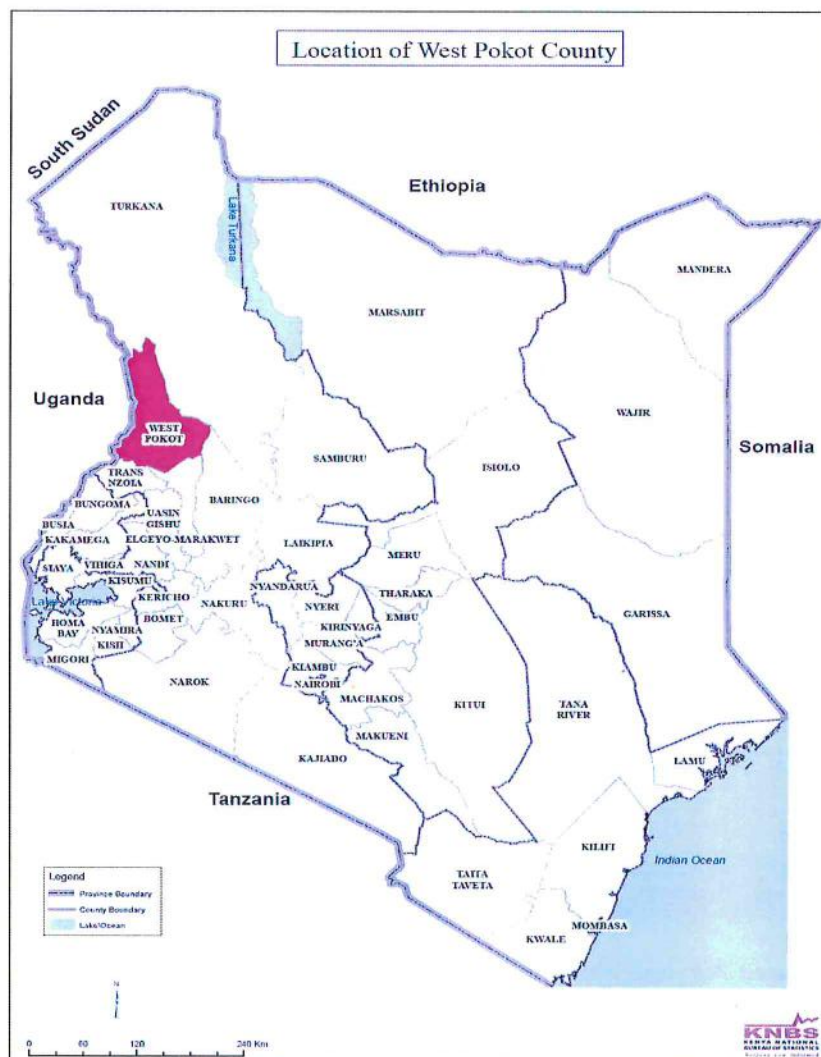


Figure 3- 1: Location of West Pokot County in Kenya

The extend of the conveyance network and the location of the Waste water treatment plant of Makutano sewerage project extends the project area to the adjacent rural areas. The waste water treatment plant is within the current municipal boundaries of the town.

3.2. MAKUTANO SEWERAGE SYSTEM

3.2.1. LOCATION

Makutano town is located in West Pokot Sub-County, Kapenguria Division, Kapenguria location, Chewoyet sub location and is administered by Kapenguria Municipality.

3.2.2. POPULATION

The population of Makutano Town is estimated at about 5,086 and is set to increase at 5.2 % p.a to 5 847, 8 247 and 11 084 by the years 2020, 2030 and 2040 respectively.

Table 3-1: Population Projection of Makutano Town

POPULATION PROJECTION OF MAKUTANO TOWN							
Name of Sub location	2009 Census	Area in km ²	Population Density in People/km ²	Growth Rate as %p.a.	Initial, 2020	Future, 2030	Ultimate, 2040
Chewoyet	5,354	8.1	487	5.2	5 847	8 247	11 084
Total	5,354	8.1	487	5.2	5 847	8 247	11 084

4. POLICY, LEGAL AND INSTITUTIONAL FRAMEWORK

This chapter identifies and presents a comprehensive review of all local and international policies and regulations and relevant laws, relating to the resettlement activities associated with the proposed sewerage project. These statutes that regulate the legal framework regarding land use and development of infrastructure, displacement and compensation.

These policy, legal and institutional guidelines informed the RAP exercise to ensure that the outcome of the exercise is consistent with the National legal provisions (The constitution of Kenya and international (AfDB and World Bank) guidelines. The chapter focuses on National (Kenyan) and guidelines.

4.1. NATIONAL LEGAL FRAMEWORK

4.1.1. THE CONSTITUTION OF KENYA

Chapter Five (Section 60) of the Constitution provides principles for holding, using and managing land in Kenya. It provides that there shall be equitable access to land, land rights shall be secure, management of land resources shall be sustainable and productive, land administration shall be transparent and cost effective, ecologically sensitive areas will be protected and conserved, there shall be no gender discrimination in law, customs and practices related to land and the government shall encourage community land disputes through recognised local community initiatives that are within the Constitution. In Section 67, the Constitution establishes the National Land Commission with several functions and the main one is management of public land on behalf of the national and county governments.

The Constitution empowers the state to exercise the authority of compulsory acquisition. **Land Act 2012** (LA) designates the **National Land Commission (NLC)** as the agency empowered to compulsorily acquire land. Article 40 of the Constitution provides that the state may deprive owners of property only if the deprivation is "*for a public purpose or in the public interest,*" which includes public buildings, roads, way leaves, drainage, irrigation canals among others. The state's exercise of this power is left at the discretion of National Land Commission and requires the state to make full and prompt payment of "*just compensation*" and an opportunity for appeal to court.

"The State shall not deprive a person of property of any description, or of any interest in, or right over, property of any description, unless the deprivation results from an acquisition of land or an interest in land or a conversion of an interest in land, or title to land, in accordance with Chapter Five; or is for a public purpose or in the public interest and is carried out in accordance with this Constitution and any Act of Parliament that –

- (i) Requires prompt payment in full, of just compensation to the person; and
- (ii) Allows any person who has an interest in or right over, that property a right of access to a court of law

Article 40 (3) (a) refers to acquisition and conversion of all kinds of land in Kenya (private, public, community land and foreign interests in land). The Constitution further provides that payment of compensation shall be made to "occupants in good faith" of land acquired by the state who do not hold title for such land [Article 40 (4)]. An occupant in good faith is a "bona fide" occupant. On the other hand, under the Constitution, those who have acquired land illegally are not regarded as deserving any compensation [Article 40 (6)]. ***The Constitution of Kenya is applicable to this project as every person living in the country is entitled to a clean and health environment and the principle of public participation is a bill of right***

4.1.1.1. LAND LAWS (AMENDMENT) ACT NO. 28 OF 2016

The land laws (Amendment) of 2016 were done on the principal land Act No. 6 of 2012. This is an Act of Parliament to give effect to Article 68 of the Constitution, to revise, consolidate and rationalize land laws; to provide for the sustainable administration and management of land and land-based resources, and for connected purposes. It has repealed the Way leaves Act, Cap. 292; and the Land Acquisition Act, Cap. 295.

The Act identifies the following forms of land tenure:

- a) Freehold;
- b) Leasehold;
- c) Such forms of partial interest as may be defined under this Act and other law, including but not limited to easements; and
- d) Customary land rights, where consistent with the Constitution.

The Act outlines methods of acquisition of title to land, which include: (a) allocation; (b) land adjudication process; (c) compulsory acquisition; (d) prescription; (e) settlement programs; (f) transmissions; (g) transfers; (h) long term leases exceeding twenty-one years created out of private land; or (i) any other manner prescribed in an Act of Parliament.

Section 9 gives provision for conversion of land from one category to another in accordance with the provisions of this Act or any other written law.

Section 9 (2) (c) outlines ways in which private land may be converted to public land, this may be through:

- Compulsory acquisition;

- Reversion of leasehold interest to Government after the expiry of a lease; and Transfers; or
- Surrender

The proponent will follow this legislation in regards to land acquisition in the project area.

4.1.1.2. THE NATIONAL LAND COMMISSION ACT, 2012

This Act was enacted to make further provision as to the functions and powers of the National Land Commission, qualifications and procedures for appointments to the Commission; to give effect to the objects and principles of devolved government in land management and administration. Functions of NLC as per this Act are

- To manage public land on behalf of the national and county governments
- To recommend a national land policy to the national government
- To advise the national government on a comprehensive programme for the registration of title in land throughout Kenya
- To conduct research related to land and the use of natural resources, and make recommendations to appropriate authorities
- To initiate investigations, on its own initiative or on a complaint, into present or historical land injustices, and recommend appropriate redress
- To encourage the application of traditional dispute resolution mechanisms in land conflicts
- To assess tax on land and premiums on immovable property in any area designated by law
- To monitor and have oversight responsibilities over land use planning throughout the country

The proponent will liaise with the National Land Commission on issues regarding land to ensure compliance with these provisions of the act.

4.1.1.3. THE LAND REGISTRATION ACT (REVISED EDITION 2016) 2012

The Act was enacted to consolidate and rationalise the registration of titles to land, to give effect to the principles and objects of devolved government in land registration. The Act requires both the national and county governments to maintain a land registration unit consisting of:

- i. A land register, in the form to be determined by the Cabinet Secretary or County Executive Committee Member in charge of land matters
- ii. The cadastral map
- iii. Parcel files containing the instruments and documents that support subsisting entries in the land register
- iv. Any plans which shall, after a date appointed by the Cabinet Secretary, be geo-referenced
- v. The presentation book, in which shall be kept a record of all applications numbered consecutively in the order in which they are presented to the registry
- vi. An index, in alphabetical order, of the names of the proprietors
- vii. A register and a file of powers of attorney

This Act provides for the absolute proprietorship over land (exclusive rights). Under this act any person may acquire absolute ownership to any land once he or she has been registered as the absolute owner. On registration such a person acquires freehold interests on the land. Freehold implies absolute ownership.

4.1.1.4. COMMUNITY LAND ACT 2016

This is an Act of Parliament to give effect to Article 63 (5) of the Constitution; to provide for the recognition, protection and registration of community land rights; management and administration of community land; to provide for the role of county governments in relation to unregistered community land and for connected purposes. Section 6(1) of the Act provides that 'county governments shall hold in trust all unregistered community land on behalf of the communities for which it is held'. Furthermore, Section 6(2) maintains that 'the respective county government shall hold in trust for a community any monies payable as compensation for compulsory acquisition of any unregistered community land'.

Proponent should liaise with West Pokot County Government and National Land Commission who are the custodians of community land as well as conduct thorough public consultation in regards to any impact to community land or asset.

4.1.1.5. PHYSICAL PLANNING ACT NO. 6 OF 1996

The Act provides for preparation of land use plans with a view to improving the affected land, securing suitable provision for transport, public purposes, utilities and services, commercial, industrial, residential uses among others. This is defined in the Section 16 of the Act. The process for plan preparation is included in the main Act whereby all plans have to be presented to the public and published in the local newspaper prior to

approval by the Cabinet Secretary. Stakeholders have to be involved in the planning process and their views have to be incorporated in the land use plan.

Once the land use category has been incorporated in a land use plan and it has gone through the approval stage, the dedicated land use vests in the authority responsible for the activity or service for benefit of the public as a whole. A restriction is implied of any re-allocation of the user to any other purpose thereafter.

Section 29 of the Act allows County Governments to prohibit or control use and development of land and buildings and give to approve all developments within their areas of jurisdiction. Where no such permission has been granted, the local authority is allowed to demolish any such structures.

The Act, however, does not provide any procedures to be followed where demolition is to be carried out and can make rise ugly confrontations between compliance enforcers and owners and occupiers of illegal developments.

The proponent will seek all relevant approvals from the various County Governments' Physical Planning departments.

4.1.1.6. FOREST CONSERVATION AND MANAGEMENT ACT, 2016

The Act provides for the establishment, control and regulation of Forests in Kenya. In line with this Act, a new semi-autonomous body namely the Kenya Forest Service (KFS) and supportive institutions for management and conservation of all types of forests were created. This Act mandates the KFS to conserve and manage all forests. It also sets out the roles and responsibilities of communities in managing forests. KFS is also responsible for formulating policies regarding the management, conservation and use of all types of forest areas in the country. The Act embraces the concept of participatory forest management and considers formation of forest community associations, which are recognized as partners in management. It enables members of forest communities to enter into partnership with KFS through registered Community Forest Associations. It also allows lease arrangements by interested groups to supplement government efforts in plantation forest.

The act also provides that no person shall fell, cut, damage or remove, trade in or export or attempt to export any protected tree species or family of trees. The proponent should ensure that the trees to be fell during the implementation of the project are not protected trees.

4.1.1.7. AGRICULTURE, FISHERIES AND FOOD AUTHORITY ACT 2013

This Act provides for the consolidation of the laws on the regulation and promotion of agriculture generally, to provide for the establishment of the Agriculture, Fisheries and Food Authority, to make provision for the respective roles of the national and county

governments in agriculture excluding livestock and related matters in furtherance of the relevant provisions of the Fourth Schedule to the Constitution and for connected purposes. Part 4, Article 21 of the Act mandates the Cabinet Secretary in charge of land to make land development guidelines; general rules for the preservation, utilization and development of agricultural land and aquatic resources, either in Kenya generally or in any particular part thereof may then be made in consultation with the National Land Commission as envisaged in Article 22 of the Act.

In Article 23 of the Act, the Cabinet Secretary in consultation with the National Land Commission may prescribe national guidelines for the purposes of the conservation of the soil, or the prevention of the adverse effects of soil erosion on any land to:-

- i). Prohibit regulating or controlling the undertaking of any agricultural activity including the firing, clearing or destruction of vegetation
- ii). Prohibit restricting or controlling the use of land for any agricultural purpose excluding livestock

4.1.1.8. VALUERS ACT (CAP 532)

The Valuers Act (CAP 532) is an Act of Parliament that provides for the registration of Valuers and offers to regulate the practise of valuation by establishing The Valuers Registration Board to oversee the operations of the discipline. Under this Act, the conditions and qualifications for registration as a Valuer are set out; the Act also details the circumstances under which the name of a Registered Valuer may be struck out of the register.

The Act expressly prohibits unregistered persons from practicing as Valuers; contravention of the Act is an offence punishable to a fine not exceeding ten thousand shillings or imprisonment for a term not exceeding twelve months or to both.

4.1.1.9. VALUATION FOR RATING ACT (CAP 266)

The Valuation for Rating Act empowers local government authorities to value land for the purpose of rates and for related purposes and applies to any area of a local authority in respect of which any rate on the valuation of land, other than a rate on the annual value of agricultural land, in the area has been imposed by or under any law.

The Act permits a Valuer appointed by the local authority to enter any property for the purposes of valuation and to enter the valuation details into a valuation roll; the valuation roll or any supplementary valuation roll contains:

- i). the description, situation and area of the land valued;
- ii). the name and address of the rateable owner;
- iii). the value of the land;

- iv). the value of the unimproved land;
- v). the assessment for improvement rate

The value of land, according to Valuation for Rating Act CAP 266, is the sum which the freehold, free from encumbrances (including easements) might be expected to realize at the time of valuation if offered for sale on such reasonable terms and conditions as a bona fide seller might be expected to impose taking into consideration other land of similar class, character or position, and to other comparative factors, and to any restrictions imposed on the land, and on the use of the land.

4.1.1.10. RATING ACT (CAP 267)

This is an Act of Parliament that provides for the imposition of rates on land and buildings in Kenya. This Act allows local authorities to levy rates on properties to meet their expenses and to provide basic services such as water and sewerage within their areas of jurisdiction. The Rating Act requires every rateable owner, joint registered owners and any person collecting rent from the piece of property to pay land rates and any interests accrued before the first day of January in the financial year.

This Act exempts from land rates the pieces of land exempted by the Valuation for Rating Act from valuation. The Valuation for Rating Act frees any land with encumbrances from valuation. For the purposes of this RAP, easements will be provided by the PAPs for their land acquired for the way leave and thus no land rates will apply for such portions.

4.1.1.11. PUBLIC HEALTH ACT CAP 242

condition liable to be injurious or dangerous to human health. Section 116 requires Local Authorities to take all lawful, necessary and reasonably practicable measures to maintain areas under their jurisdiction clean and sanitary to prevent occurrence of nuisance or condition liable for injurious or dangerous to human health. Such nuisance or conditions are defined under Section 118 waste pipes, sewers, drains or refuse pits in such a state, situated or constructed as in the opinion of the medical officer of health to be offensive or injurious to health. Any noxious matter or waste water flowing or discharged from any premises into a public street or into the gutter or side channel or watercourse, irrigation channel or bed not approved for discharge is also deemed as a nuisance. Other nuisances are accumulation of materials or refuse which in the opinion of the medical officer of health is likely to harbour rats or other vermin. Part IX, Section 115 of the Act states that no person/institution shall cause nuisance or

The proposed project to mitigate public health hazards especially during construction phase.

4.1.1.12. OCCUPATIONAL, HEALTH AND SAFETY ACT OF 2007

Its role is to provide for the safety, health and welfare of workers and all persons lawfully present at workplaces, to provide for the establishment of the National Council for Occupational Safety and Health and for connected purposes.

The key areas addressed by the Act include:

- General duties including duties of occupiers, self-employed persons and employees
- Enforcement of the act including powers of an occupational safety and health officer
- Registration of workplaces
- Health General Provisions including cleanliness, ventilation, lighting and sanitary conveniences
- Machinery safety including safe handling of transmission machinery, hand held and portable power tools, self-acting machines, hoists and lifts, chains, ropes & lifting tackle, cranes and other lifting machines, steam boilers, air receivers, refrigeration plants and compressed air receiver
- Safety General Provisions including safe storage of dangerous liquids, fire safety, evacuation procedures, precautions with respect to explosives or inflammable dust or gas
- Chemical safety including the use of material safety data sheets, control of air pollution, noise and vibration, the handling, transportation and disposal of chemicals and other hazardous substances materials
- Welfare general provisions including supply of drinking water, washing facilities, and first aid
- Offences, penalties and legal proceedings

The Contractor should register with the Directorate of Occupational Health and Safety and comply with all the legal provisions in the OSHA 2007 as stated above.

4.1.1.13. THE COUNTY GOVERNMENTS ACT NO. 4, 2017

The local government act was repealed after the final announcement of all the results of the first elections held under the Constitution as per the County Governments Act of 2012. Under section 134 subsection (1), The Local Government Act is repealed upon the final announcement of all the results of the first elections held under the Constitution. It further states in section 134, subsection (2) reads "All issues that may

arise as a consequence of the repeal under subsection (1) shall be dealt with and discharged by the body responsible for matters relating to transition.

The project will, according to the County Government Act of 2012, ensure that the project activities conform to the regulation that shall be passed. (section 135 (1) The Cabinet Secretary may make regulations for the better carrying out of the purposes and provisions of this Act and such Regulations may be made in respect of all county governments and further units of decentralization generally or for any class of county governments and further units of decentralization comply to the set regulations and by-laws.

The proponent should seek necessary approvals and permits from West Pokot County government before the project proceeds.

4.1.1.14. THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT (AMENDMENT) CAP 387

This is an Act of parliament to provide for the establishment of an appropriate legal and institutional framework for the management of the environment and for matters connected therewith and incidental thereto. Part VII on Environmental Audit and Monitoring section 58 specifically detail the need to undertake Environmental Impact Assessment of all projects likely to cause negative impacts to the environment as listed in the second schedule of the act; under Number 4 Dams, rivers and water resources; any project located within a distance to water body or meant to utilize water resources under the second schedule of the section 58 of the EMCA that list of projects that are to go through a full EIA study.

It is therefore mandatory that an Environmental Impact Assessment must be undertaken by all on-going projects to ensure that the activities at their premises comply with all legal and institutional frameworks that are in place to safeguard the environment, health and safety of the workers. EMCA has provided for the development of several subsidiary legislations and guidelines that govern Environmental Management which are relevant to the current project.

The Proponent has conducted an ESIA for the proposed project.

4.2. POLICIES

4.2.1. NATIONAL WATER POLICY 2018

The goal of this policy is to guide the achievement of sustainable management, development and use of water resources in Kenya. It provides a framework for sustainable management and financing of water resources; water harvesting and storage; and for equitable, efficient, and universal access to water supply and

reasonable standards of sanitation, for domestic, economic use and ecosystem sustenance. It provides for the establishment of mechanisms to guide intergovernmental and institutional coordination for better delivery of respective functions.

The policy is guided by the following principles:

- **Sustainability:** Water is a finite resource which shall be used efficiently and mindful of the needs of the current and future generations, and in cognizance of maintaining the environmental reserve to ensure inter-generational and intra-generational existence.
- **Intergovernmental and institutional collaborative effort:** National and County governments shall work in a consultative and collaborative manner with a clear coordination framework to promote the objectives of the sector, considering the distinct mandates of each level of government; incorporating recognition of concurrent and overlapping areas of jurisdiction.
- **Integrated planning and resource management:** Planning of water sector activities should take national, cross-county and county approach towards the development of national integrated investment and financing plan. The management and development of water resources shall consider different and competing interests of groups, sectors and the needs of the environment. Planning for water service and resource management should be integrated.
- **Respect for human rights:** Every sector player shall act in a manner that protects, respects and fulfils the human right to water and sanitation. Every Kenyan has a right to clean and safe water in adequate quantities, and to reasonable standards of sanitation. The management and use of water resource should consider the needs and rights of riparian communities as well as guaranteeing access rights to other users for surface and ground water
- **Equity and inclusivity:** Water resources shall be allocated fairly according to need, value to economy and efficient usage, mindful of the marginalized and vulnerable groups. Cross-county equity should apply in sharing water resource.
- **Polluter pays principle:** Any entity whose activities affect the quality of water resource should bear the cost of restoration and abatement, and in an equitable manner to encourage innovation in control of water pollution

- **Consumer protection:** The sector will implement measures that shall ensure that water is available, accessible, affordable, reliable, sustainable, and in the right quality, quantity and time, and being mindful of marginalized and vulnerable groups.
- **Efficiency and value for money:** Every effort should be made in maximizing output per unit of public resource, and in maximizing the expected outcome(s) across the value chain.
- **Ring fencing:** Revenues generated from charges, fees and tariffs of water, should be used for the purpose of promoting water activities only.
- **Public participation and stakeholder consultation:** (article 174c) Measures should be put in place to ensure that those to be affected either positively or negatively by any water activities are involved in the decision-making processes. Key stakeholders should also be consulted in the processes.

The guiding principles of this policy should be adhered to by the proponent during project implementation.

4.3. INSTITUTIONAL FRAMEWORK

4.3.1. MINISTRY OF WATER AND IRRIGATION

The Ministry of Water and Irrigation is the lead agency for all water related projects or projects that may have an impact on water resources. Ministry of Water and Sanitation's core functions include policy formulation, overall coordination of the water sector, and supervision of departments under the ministry, resources mobilization and guidance.

The Ministry of Water and Sanitation (MOWS) is the project implementing body.

4.3.2. MINISTRY OF LANDS

Land management in Kenya is vested in the Government through the Ministry of Lands. The Ministry is made up of the following five departments:

- Department of Administration and Planning;
- Department of Lands;
- Department of Land Adjudication and Settlement;
- Department of Survey; and

- Department of Physical Planning.

The following five semi-autonomous bodies also fall within the Ministry:

- Land Arbitration Tribunal;
- Valuers Registration Board;
- Estate Agents Registration Board;
- Land Control Boards including Divisional Boards, Provincial Boards, Provincial

Appeals Boards, Central Appeals Board

- Physical Planning Liaison Committee

The Ministry of Lands is charged with the enforcement and regulation of all the Acts relating to land which include:

- Land Act (Amendment) 2016 and the principal Land Act No. 6 of 2012.
- Land Registration Act.
- Land Control Cap. 302.
- Community Land Act.
- Physical Planning Act.

4.3.3. NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY (NEMA)

The responsibility of NEMA is to exercise general supervision and co-ordination over all matters relating to the environment and to be the principal instrument of Government in the implementation of all policies relating to the environment. The Authority gives licenses to any development project once it reviews environmental and social impact assessment reports prepared so as to assess the possible impacts of the proposed project as well as give mitigation measures to ensure protection and sustainability of the environment and the development.

4.3.4. WATER RESOURCES AUTHORITY (WRA)

The Authority is a body corporate with perpetual succession and a common seal and has power, in and by its corporate name, to sue and to be sued and, in the exercise and performance of its powers and functions, to do and permit all such things as may lawfully be done or permitted by a body corporate in furtherance of its objects.

The Authority has the following powers and functions:

- To develop principles, guidelines and procedures for the allocation of water resources;
- To monitor, and from time to time re-assess, the national water resources management strategy;
- To receive and determine applications for permits for water use;
- To monitor and enforce conditions attached to permits for water use
- To regulate and protect water resources quality from adverse impacts;
- To manage and protect water catchments;
- In accordance with guidelines in the national water resources management strategy, to determine charges to be imposed for the use of water from any water resource;
- To gather and maintain information on water resources and from time to time publish forecasts, projections and information on water resources;
- To liaise with other bodies for the better regulation and management of water resources;
- To advise the Minister concerning any matter in connection with water resources.

In addition:

1. The Authority may, with the consent of the Attorney-General given under the Criminal Procedure Code, undertake the prosecution of any offences arising under this Act or in connection with the performance of its functions.
2. The Authority shall have such other powers and functions as may be conferred or imposed on it by or under this or any other Act, or as may be reasonably incidental to the exercise or performance of any power or function so conferred or imposed.
3. Except as to the contents of any report or recommendation made by it, the Authority shall, in the exercise and performance of its powers and functions, be subject to such directions as may be given from time to time by the Minister.
4. A summary of any directions given under subsection (4) during a financial year shall be published in the Authority's annual report prepared under section 18.

4.4. INTERNATIONAL RESETTLEMENT POLICIES AND GUIDELINES

4.4.1. THE AfDB INVOLUNTARY RESETTLEMENT POLICY

The AfDB Involuntary Resettlement Policy is set within the framework of the Bank's overarching vision of poverty reduction, through sustainable development. The essential objective of the policy is the equitable treatment of people who are displaced as a result of a project and that they have access to the benefits of the project that involves their resettlement. The policy objectives ensure that disruption of the people's livelihoods is minimized, and that resettlement assistance improve their living standards. The policy requires the preparation of the resettlement action plan that addresses the issues of the livelihood and living standards of the displaced persons, as well as compensation for loss of assets, using a participatory approach at all stages of project design and implementation.

The policy contains clear guidelines for land acquisition and compensation of people affected by the project. Key policy objectives are as follows;

- Minimize or avoid involuntary resettlement where feasible, and where displacement is unavoidable, to explore all viable alternative project designs in terms of reducing the number of affected persons.
- Ensure that displaced people receive resettlement assistance, preferably under the project, so that their standards of living, income earning capacity and production levels are improved.
- Provide explicitly guidance on the conditions that need to be met regarding involuntary resettlement.
- Set up a mechanism for monitoring the performance of involuntary resettlement programmes in bank operations and remedying problems as they rise so as to safeguard against ill-prepared and poorly implemented resettlement.

In order to achieve the overall objectives of this policy, projects that involve involuntary resettlement should be prepared and evaluated according to the following guiding principles:

- The borrower should develop a resettlement plan where physical displacement and loss of other economic assets are unavoidable. The plan should ensure that displacement is minimized, and that the displaced persons are provided with assistance prior to, during and following their physical relocation. The aim of the relocation and of the resettlement plan is to improve displaced persons former living standards, income earning

capacity, and production levels. The resettlement plan should be conceived and executed as part of a development program, with displaced persons provided sufficient resources and opportunities to share in the project benefits.

- Additionally, displaced persons and host communities should be meaningfully consulted early in the planning stages and encouraged to participate in the planning and implementation of the resettlement program.
- Particular attention should be paid to the needs of disadvantaged groups among those displaced, especially the disabled, the elderly, female headed households and ethnic, religious and linguistic minorities; including those without legal title to assets.
- Resettled PAPs should be integrated socially and economically into host communities so that adverse impacts on host communities are minimized.
- Displaced persons should be compensated for their losses at "full replacement" cost prior to their actual move or before taking of land and related assets or commencement of project activities, whichever occurs first; and
- The total cost of the project as a result should include the full cost of all resettlement activities, factoring in the loss of livelihood and earning potential among affected peoples.

This policy covers economic and social impacts associated with Bank financed projects involving involuntary acquisition of land or other assets which results in:

- Relocation or loss of shelter by the persons residing in the project area;
- Loss of assets or involuntary restriction of access to assets including national parks, protected areas or natural resources; or
- Loss of income sources or means of livelihood as a result of the project, whether or not the affected persons are required to move.

Displaced persons in the following two groups are entitled to compensation for loss of land or other assets taken for the project purposes:

- Those who have formal legal rights to land or other assets recognized under the laws of the country.
- Those who may not have formal legal rights to land or other assets at the time of the census but can prove that they have a claim such as land or assets that would be recognized under the customary laws of the country.

A third group of displaced persons are those who have no recognizable legal right or claim to the land they are occupying in the project area and who do not fall in any of the two categories described above. This category of displaced persons, are entitled to resettlement assistance in lieu of compensation for land to improve their former living standards (compensation for loss of livelihood activities, common property resources, structures and crops, etc.), provided they occupied the project area prior to a cut-off date established by the borrower and acceptable to the Bank.

Annex B of the African Development Bank (AfDB) puts in detail the requirements for Resettlement Action Plan which include:

- A census survey of the expected size of the displaced persons, their socioeconomic status including the value of their assets and other sources of livelihood should be carried out
- The displaced people and the host population should be consulted about acceptable project alternatives and should be informed about project's potential impacts on them.
- Description of compensation options to be offered and other resettlement assistance to be provided should be documented and discussed with the PAPs including their preferred choice. It would be preferable to use local NGOs in this process.
- Institutional responsibilities for implementation of the resettlement plan including involvement of NGOs in monitoring the plan should be established; and
- The schedules, budget and sources of funds should be agreed upon with the executing agency

Relevance to the project:

Annex B of the AfDB provides in details the requirements of Resettlement Action Plan. The step by step procedure for conducting a RAP will guide the proponent in the process before commencement of the project. It also advocates for stakeholder participation in the RAP process and outlines cross-sectoral responsibilities. This encourages inclusivity in the RAP process.

5. PUBLIC CONSULTATION AND PARTICIPATION

5.1. INTRODUCTION

Public participation and consultations were done through individual, group, and community meetings. Selection of ways to consult, and expand participation by PAPs and other stakeholders, took into consideration literacy levels prevalent in affected communities; ethnicity and cultural aspects; and practical conditions (like distance). The role of traditional political and cultural leaders, including the community elders, in the participation strategy was important.

The main objective of public consultations is to provide an avenue for the Consultant to educate the public on the project as well receive their opinions, concerns and reservations on the same. The public and other stakeholders need to be involved from an early stage to ensure that their needs and suggestions are identified and met.

Specific objectives of the consultations are to:

- i). Introduce the public and other stakeholders to the project
- ii). Identify the opinions, concerns and suggestions that the stakeholders have in relation to the project
- iii). Facilitate transparency and participation in the resettlement process.
- iv). Help the development of suitable entitlement alternatives.
- v). Facilitate accountability in decision making.
- vi). Minimizing conflicts by identification of contentious issues at the initial stages
- vii). Boost public confidence in the RAP process.
- viii). Point out and recognize local leaders who can lead the process and push for further discourse in consequent stages of the project.
- ix). Increase institutional coordination by sensitization of the project activities while integrating institutional stakeholders' views.
- x). Enhancement of long-term sustainability and ownership of the project.

Their views, contributions and queries Makutano Sewerage Project public consultation process were captured and incorporated in this report.

5.2. STAKEHOLDERS DEFINITION

The RAP process involved several stakeholders. This report was guided by the following identifications of stakeholders based of possible needs, interests, comparative influence and potential impact the project may influence on their normal livelihoods. Two main categories of stakeholders were identified, including:

- **Primary stakeholders:** the beneficiaries of a project or the ones directly affected, both positively and negatively by the project.
- **Secondary stakeholders:** These are indirectly affected by the project. They influence development of the project and the RAP process. They comprised of respective government agencies, WSPs and County government among other similar individuals and institutions as will be outlined in the following sections.

The stakeholders consulted are outlined in the table below;

Table 5-1: Stakeholders Consulted

Number	Category of stakeholder	Stakeholders Consulted
1.	Project Proponent and Associated bodies	<ul style="list-style-type: none"> • Central Rift Valley Water Works Development Agency • Kapenguria Water and Sanitation Company
2.	West Pokot County Government	<ul style="list-style-type: none"> • County Executive- Environ, Water and Natural Resources • Chief Officer- Water • County Executive -Health and Sanitation • County Executive-Roads, Public Works, Transport and Infrastructure
3.	Public Administration	<ul style="list-style-type: none"> • County Commissioner- West Pokot County • Assistant County Commissioner <ul style="list-style-type: none"> ◦ Mnagei Subcounty • Chiefs and the local administration <ul style="list-style-type: none"> ◦ Kishaumet ◦ Mnagei
4.	General public	<ul style="list-style-type: none"> • Public Barazas conducted
5.	NGOs/CBOs/Associations/Civil Society Organizations in West Pokot County	<ul style="list-style-type: none"> • ACF • I-Rep
6.	Key Ministries and related	<ul style="list-style-type: none"> • Water Resources (WRA)

	agencies in West Pokot County	<ul style="list-style-type: none"> Public Health & Sanitation Physical Planning Department (West Pokot County)
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The RAP study consultations were in the form of Key informant interviews and Public consultation meetings/barazas. The RAP team identified respective chief, assistant Chiefs, village elders, and local leaders in the target areas.

The identified persons were informed of the project and the on-going RAP and helped to mobilise the PAPs during the survey. The study set dates for the public meetings to sensitize the public of the proposed project. The locations and attendance were as follows:

Table 5-2: Public Consultation Attendance Summary (2022)

No.	VENUE	LOCATION/SUB- LOCATION	DATE	ATTENDANCE
1.	Kaplelach Koror	Lityei	May 2022	29
2.	Nasokol	Kishaunet	May 2022	34
3.	Sebulion	Kishaunet	June 2022	33
4.	Kaplelach Koror	Lityei	June 2022	25
5.	Kaplelach Koror	Lityei	June 2022	25
6.	Nasokol	Kishaunet	June 2022	32
TOTAL				178

Table 5-3: Public Consultation Attendance Summary (2018-2020)

No.	VENUE	LOCATION/SUB- LOCATION	DATE	ATTENDANCE
7.	Makutano Town (Makutano Stadium)	Kishaunet	Sept 2018	52
8.	Kishaunet	Lityei and Kishaunet	Sept 2018	42
9.	Kaplelach Koror	Lityei	Sept 2018	42
10.	Kaplelach Koror	Lityei	May 2019	40
TOTAL				176

Table 5-4: Bench Marking Visit to Eldoret Water and Sanitation Company (ELDOWAS) (2018-2020)

BENCH MARKING VISIT TO ELDORET WATER AND SANITATION COMPANY (ELDOWAS) (Attended by PAPs and Community Members)	
1.	Understand the Waste water treatment process
2.	Education on the need for waste water treatment facility
3.	Tour of ELDOWAS Wastewater treatment facility



Photo 5-1: HRM of ELDOWAS Welcoming the benchmarking team (2018-2020)

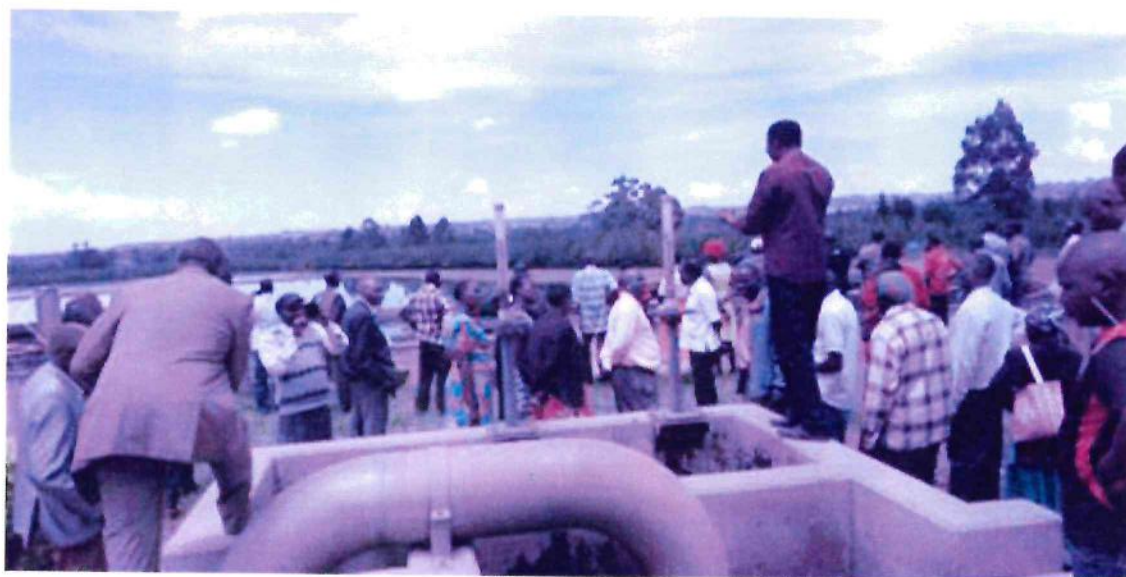


Photo 5-2: ELDOWAS Sewerage operator explaining the treatment process during the tour (2018-2020)

5.3. PUBLIC PARTICIPATION

5.3.1. ISSUES RAISED DURING PUBLIC PARTICIPATION

Public consultations were conducted across the project area. The outcomes from the public consultations were positive, the main one being improved health through provision of sanitation facility and job creation. Possible concerns related to need for project awareness, social and cultural concerns relating to sewerage systems and compensation for land.

The following tables provide summaries of the key issues raised during public consultations.

Table 5-5: Community meeting at Kaplelach Koror (Lokwador's home)

Community meeting at Kaplelach Koror (Lokwador's home) 19-05-2022	
1.	Compensation should be carried out before the commencement of the project
2.	Project should consider employment of the locals
3.	CSR activities to be carried out
4.	The project is accepted and allowed to proceed

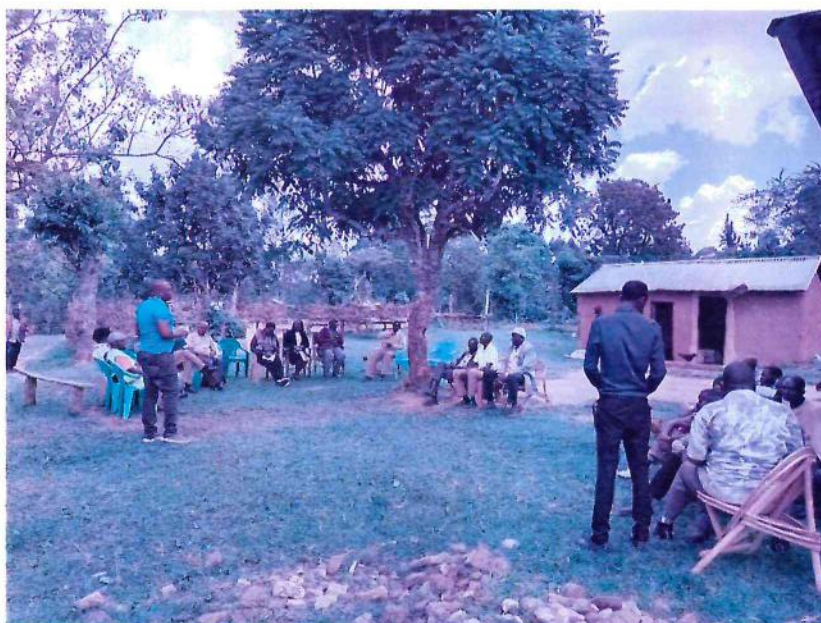


Photo 5-3: Client representative addressing the meeting

Table 5-6: Community meeting at Nasokol (Kishaunet County Land) on 20-05-2022

Community meeting at Nasokol (Kishaunet County Land) on 20-05-2022	
1.	The project implementors should work with the community
2.	Project should consider employment of the locals
3.	CSR activities to be carried out

4.	Compensation of the affected property to happen before the project implementation
5.	The group sought to understand the definition of riparian and how compensation will affect it which was clarified by the consultant
6.	The project is accepted and allowed to proceed



Photo 5-4: CRVWDA Environmentalist addressing the community meeting

Table 5-7: Community meeting at Sebulion village

Community meeting at Sebulion village on 09-06-2022	
1.	The project implementors should work with the community
2.	Project should consider employment of the locals
3.	Compensation of the affected property should happen before the project implementation
4.	The project is accepted and allowed to proceed

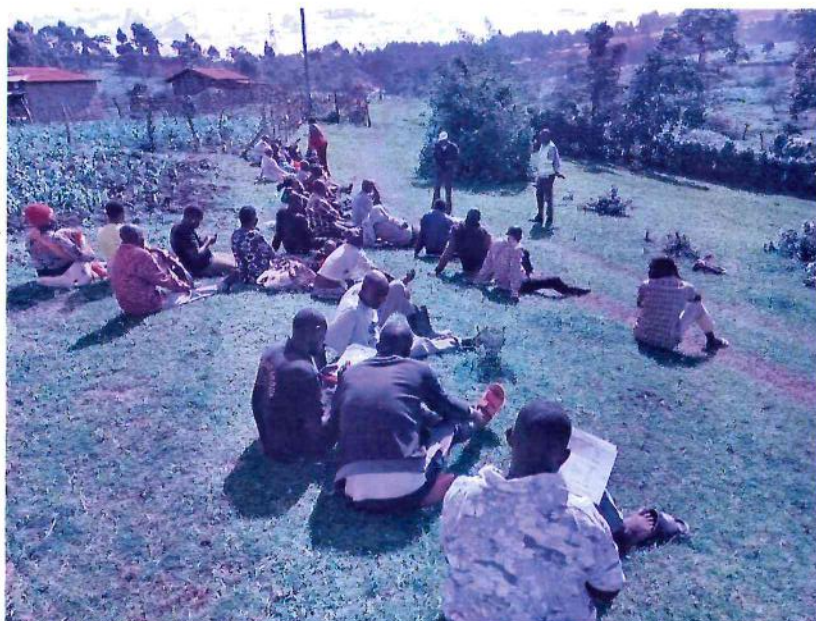


Photo 5-5: Consultant addressing the meeting

Table 5-8: Community meeting at Kaplelach Koror (WWTP neighbours)

Community meeting at Kaplelach Koror (WWTP neighbours) on 10-06-2022	
1.	Allowed the project activities to continue
2.	Project should consider employment of the locals
3.	CSR activities to be carried out
4.	Give the special considerations since they live next to the WWTP
5.	Designs should ensure that the buffer zones are put o protect them from the WWTP
6.	The project is accepted and allowed to proceed



Photo 5-6: Discussions with the WWTP neighbours

5.4. DISCLOSURE OF RAP

Disclosure process should be done in a manner that is inclusive, culturally appropriate and ensures the participation of vulnerable groups. The RAP document and its recommendations should be presented to the PAPs in project area. The discussions should include but not limited to the following:

- The identified project impacts including scope of land take and recommendation proposed by the RAP.
- Valuation of assets and compensation values for loss of assets and livelihood.
- The various compensation modes (in kind, in cash and in kind in lieu of cash) available and the recommended compensation mode (land based) and reason.
- Process involved in land acquisition for Government projects and role played by NLC and County Government.

The borrower should submit the RAP to relevant national agencies (NEMA, West Pokot County) and to AfDB. The RAP is finalised as a supplement document to the ESIA report. The Bank (AfDB) will then post the RAP in its Public Information Centre and CRVWDA on its websites for public review and comments. The RAP should be released to the public at least 120 days before the proposed operation is presented to the Board.

6. SOCIO-ECONOMIC SURVEY

6.1. INTRODUCTION

This Chapter presents the findings of the socioeconomic survey carried out to assess and evaluate the economic resource base and social conditions of the PAPs including issues of household demography, household land holding and assets, community affiliation, and welfare indicators among others. Information collected communicated indicative social dynamics likely affect resettlement actions.

During the socio-economic survey a total of 56 respondents were interviewed (78.87% of PAPs). The survey results have been dis-aggregated in order to determine relevant socio-economic information of the project area. This will form crucial socio-economic baseline information with regards to the project area. The socio- economic survey is also helpful in quantifying impacts and/or socio-economic information that the RAP team can use in recommendation and mitigation in regards to impacts of the proposed project.

The analysis was done using SPSS software and Microsoft Excel.

6.2. DESCRIPTIVE STATISTICS

6.2.1. LOCATION

The survey involved PAPs of the proposed Makutano Town Sewerage Project. All the respondents were drawn from West Pokot County. No sampling was required as the survey targeted the entire PAPs population.

Kishaunet sub-location had the most PAPs contacted (77.46%). This is attributed to the fact that the PAPs in this area have smaller land portions

The locations of the PAPs surveyed is as illustrated in the figure below;

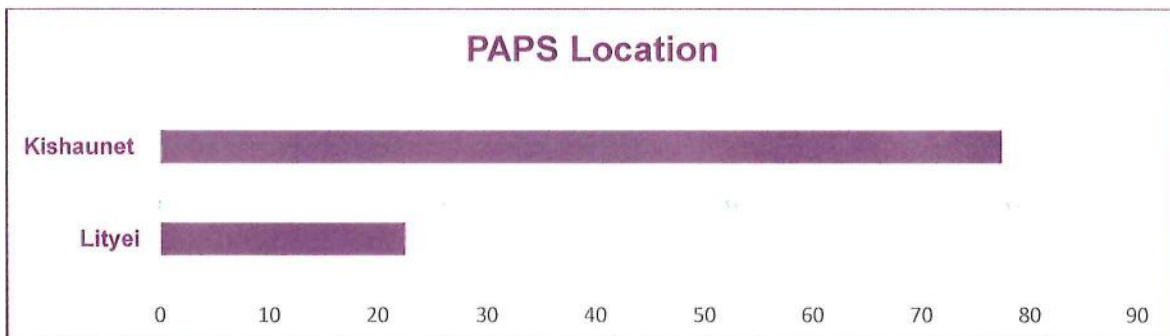


Figure 6-1: Respondent aggregated by sub-location

6.2.2. GENDER

The survey sought to understand Household head gender statistics of the PAPs. The observations indicated that most of the households were headed by males (96.5%).

The survey sought to get information relevant to household management (usage of water, diseases, frequency of access to markets and school etc.) which women/female are better placed to answer than men especially in the traditional rural setting as was the project area.

6.2.3. ETHNICITY

The ethnicity in the project area is predominantly Pokot in all two (2) sublocations affected by the proposed project (88.7%). Kikuyu followed and most of them live in the urban section of the project

Project area has a predominant ethnic group; the Pokot. The proponent and RAP experts should recognize the traditions and traditional conflict resolution mechanisms already in existence and incorporate them in GRC and land matters. The Experts should also consider the possible unique traditions of the minority groups.

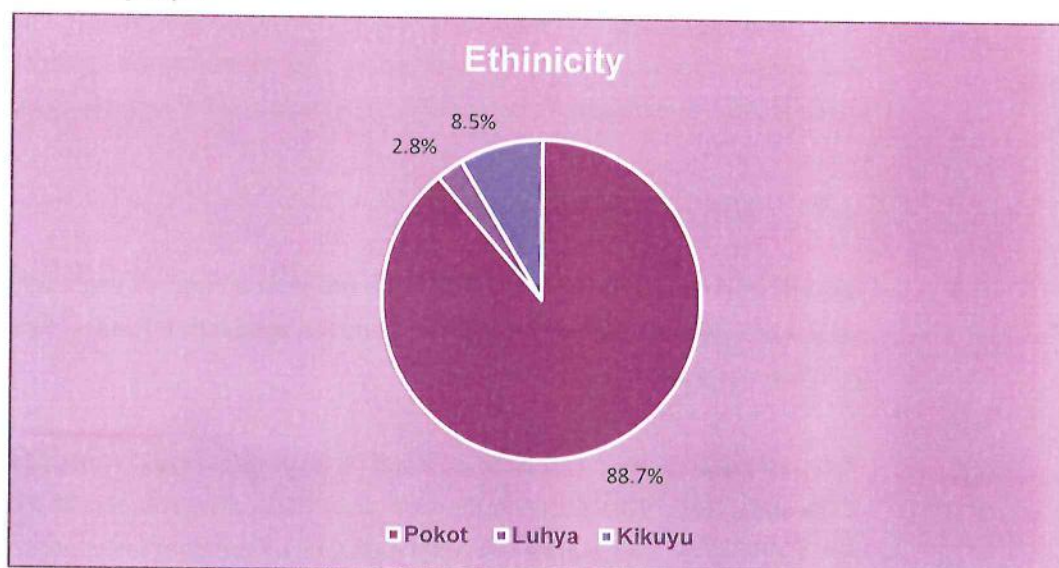


Figure 6-2: Ethnicity Statistics

6.3. HOUSEHOLD STATISTICS

6.3.1. HOUSEHOLD HEAD GENDER

The survey observed that almost all households (96.5%) were headed by males.

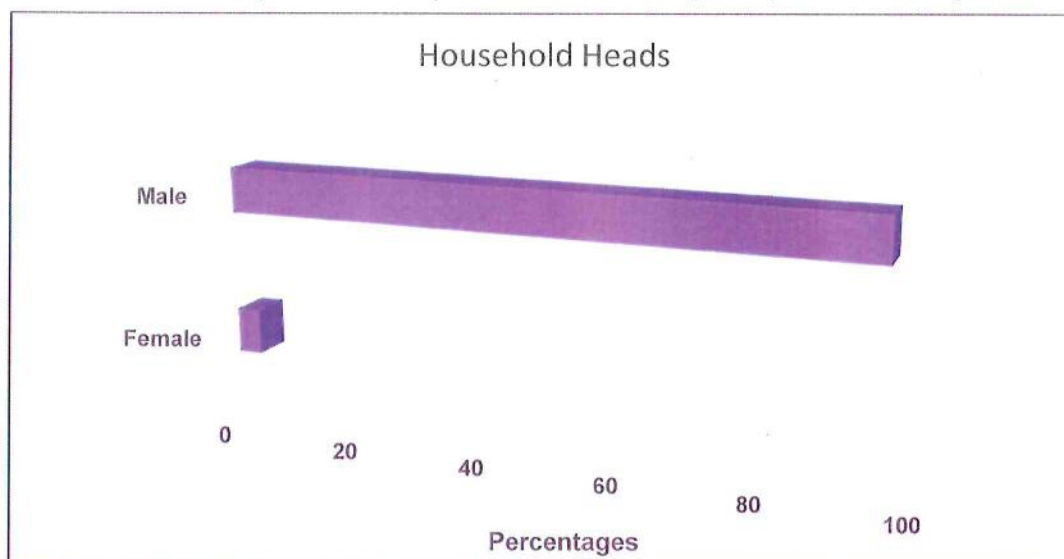


Figure 6-3: Household Heads

Most of the households were male headed, however a minority are female headed. This group of household heads form Vulnerable and Marginalized Groups and should be assessed further and considered for an extra assistance by the project as they are often at a disadvantaged position relative to other community members.

6.3.2. HOUSEHOLD HEAD AGE

Majority of the household heads were aged between 36 and 45 years (27%). The least representation were the youth (17%) and the aged over 60 years (11%). None of the responds was beyond 85 years.

The youthful population in project area can be involved during construction phase, while at the same time ensuring the older population who form part of Vulnerable and Marginalised Group are given extra assistance. Further assessment should be done to establish the extend of need at individual basis.

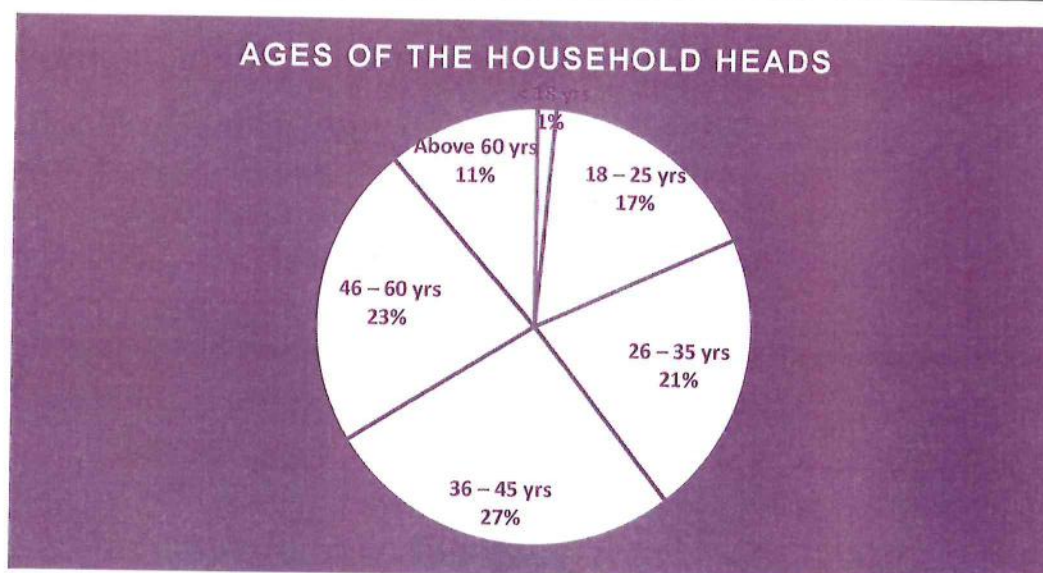


Figure 6-4: House Hold Head by age

6.3.3. HOUSEHOLD HEAD EDUCATION LEVEL

A survey of on the highest educational level of the PAPs indicated that more than half (56.34%) of the PAPs attended secondary school. 16.9 % attended post-secondary education However, about 12.68 % of the PAPs indicated Primary education as their highest level most of them could not read and write. 14.08% never attended school and they may need extra assistance especially in understanding the legal process involved in RAP.

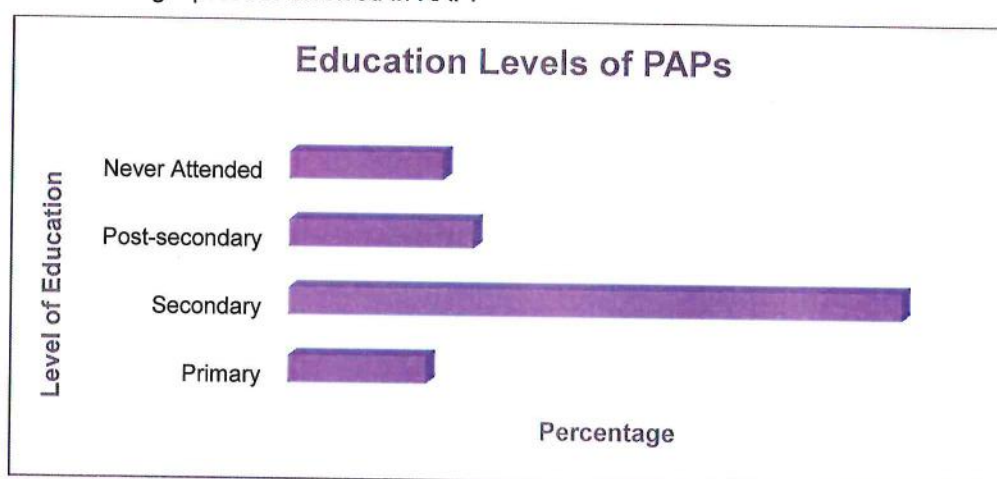


Figure 6-5: Education Levels of PAPs

6.3.4. SIZE OF HOUSEHOLD

The average household size of the PAPs was established as 3.58 persons per household (SD = 1.1). The figure was derived from the total number of dependants

present at that time and was not limited to family members of the household head. The largest household had 8 dependants, while the smallest had one (0.94%). Most of the PAPs had 3 (34.91%) and 4 dependents respectively (34.91%). These number is not equal to the number of children per house hold as most of them are already mature and independent and did not fit the inclusion criteria in the survey.

Table 6-1: Mean Household Size

Descriptive Statistics					
	N	Minimum	Maximum	Mean	Std. Deviation
Number of Dependants	106	1.00	8.00	3.5849	1.13698
Valid N (listwise)	106				

Project Affected Households (PAH) in the project area mostly have 1-5 members in the household however a minority have 21-25 members, the project proponent should factor the diversification in affected person during consultations and compensation especially of shared resources (land).

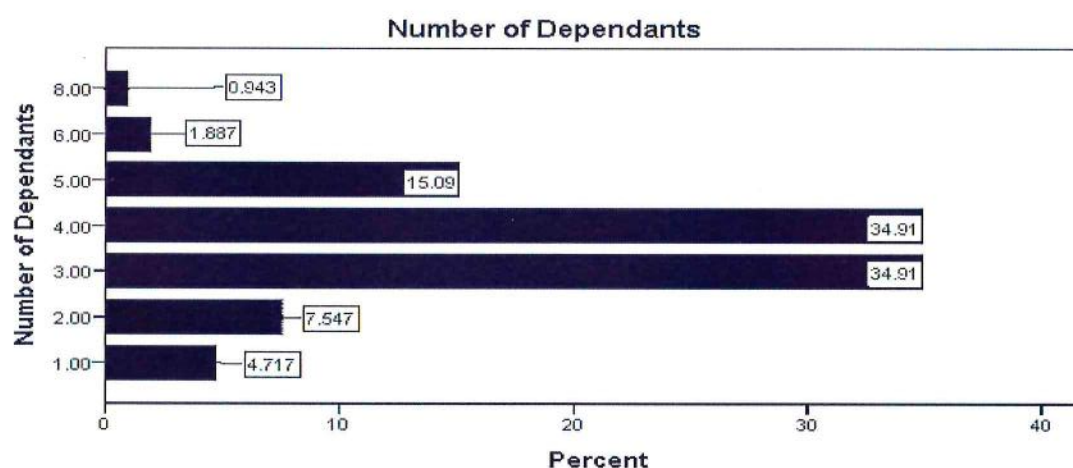


Figure 6-6 Number of Dependants

All respondents in the survey did not indicate having any disabled member in their households.

The disabled form part of vulnerable and marginalised groups and may be of interest to the RAP implementing agency.

6.3.5. ELDERLY HOUSEHOLD MEMBERS

The RAP Study recognized PAPs aged above the age of 60 years as special interest groups. While the categorization is based on principle rather than fact, the results of the survey are intended to guide further assessment and consideration of the aged group for extra assistance. The survey observed that the 11.27% of the PAPs were above the age of 60 years

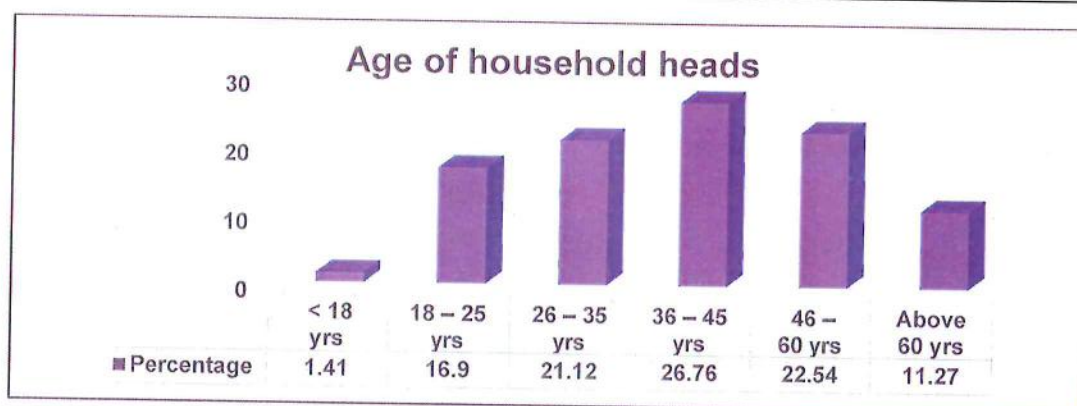


Figure 6-7: Ages of the PAPs

The elderly may tend to be attached to their environment. As such, cases of involuntary displacement may have significant psychological effects on them. The analysis in this report recommends that special attention is placed on these PAPs. Further assessment on the extent of their vulnerability and special assistance is therefore advised.

Extra care and assistance, including consideration for counselling, should be considered for the elderly. For the case of Complete land acquisition, options for Land for Land compensation should be prioritized in the negotiations.

6.3.6. LAND OWNERSHIP

The RAP study indicates that the land ownership was predominantly on a freehold basis (98.59%). 1.41% is leasehold land.

Land search land must be carried out during the RAP implementation to ensure that the right PAPs are compensated

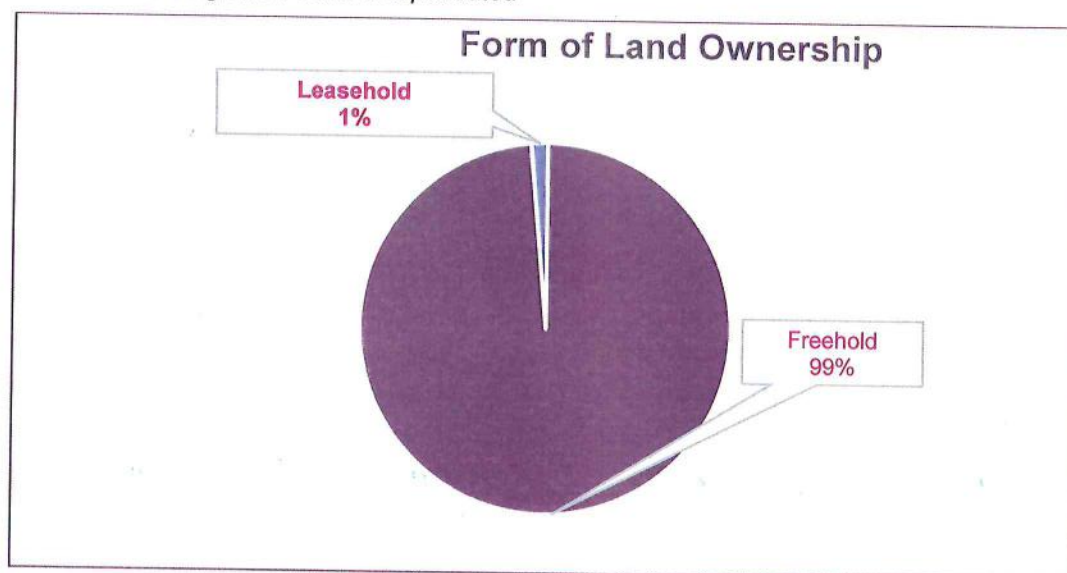


Figure 6-8: Form of Land Ownership

7. PROJECT IMPACTS

7.1. INTRODUCTION

A key initial task in any resettlement planning process is to identify project adverse impacts and the population that will be affected. The magnitude, nature and mitigation measures of the anticipated project impacts are addressed in the ESIA study report. The Impacts associated with the proposed project are outline below;

7.2. IMPACTS

7.2.1. LOSS OF LAND

Loss of land, either in whole, or in part following the requirement for easements is anticipated in the project. The losses will occur during acquisition of land by the project to set up the Waste treatment plants in Kaplelach Koror Village. The main trunk lines will also affect section of the riparian lands for a stretch of approximately 11,790 meters. Searches for all the surveyed plots will be carried out to confirm the owners of the land

The different components of the project and the proposed land acquisition are as described below.

7.2.1.1. WASTE WATER TREATMENT SITE

The WWTP total land requirement is a total of 61 acres. The land was available from three separate land parcels.

Table 7-1: WWTP Land requirement

WWTP	No. of Land Parcels affected	Sublocation Location	Land Size (Acres)
Makutano	3	Lityei	61

The impact of the land acquisition can be summarised in the table below;

Table 7-2: Beneficiaries of the land for WWTPs

Item	No. Parcels	Beneficiaries	Total PAPs
WWTP	3	52	3

The details of the land parcels for the proposed WWTP sites are provided in table 7-3 below;

Table 7-3: WWTP site Parcel No details

LAND PARCEL NUMBER	AREA PROPOSED (ACRE)	OWNER
Makutano WWTP		
WESTPOKOT/KISHAUNET/046	25	Private
WESTPOKOT/KISHAUNET/047	36	Private

7.2.1.2. CONVEYANCE ROUTE WAYLEAVE

While the sewer system is designed to maximise the use of public right of way road reserve, the main trunks will be laid along the river banks. The case will effectively encroach to riparian land owners. A requirement of 6-meter width of land has been proposed to facilitate installation and servicing of the main lines.

Table 7-4: PAPs affected with the land sizes

Trunk Conveyance Route	PAPs ²	Land Size (Acres)
Makutano	68	11.79

7.2.2. LOSS OF STRUCTURES




These were identified and categorised in three main classes based on the construction materials used. They were:

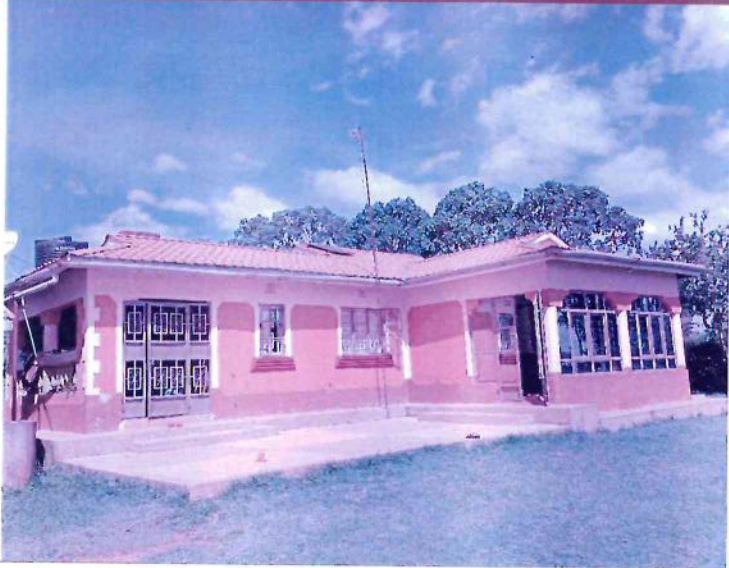
- Permanent
- Semi-Permanent
- Temporary/Movable

From the PAP inventory, a total of seventy-two (72) structures are affected by the project, below are some of the structures affected;

² See Annex for inventory of PAPs

Table 7-5: Table of some of the Affected Structures

No.	ITEM	PHOTO
1.	Semi-Permanent House	
2.	Semi-permanent house	
3.	Constructed Grave	

No.	ITEM	PHOTO
4.	Permanent House	

Mitigation:

- PAP to be provided with at least three months' notice before displacement.
- Compensation at replacement cost for any affected or damaged structure.
- Compensation talks to be conducted with both female and male couples to ensure accountability. Female headed and child headed households should also be recognized as beneficiaries.
- Extra assistance for vulnerable groups in project area; they include the aged, disabled and female headed households in the form of transport assistance, priority in job allocation etc.
- Payment for facilitation and/or compensation should precede commencement of construction activities

7.2.3. LOSS OF VEGETATION COVER, CROPS AND TREES

The proposed development entails excavation works which will prompt clearing of vegetation and earth movement. The restoration requirements have been highlighted in the ESIA report. However, there will be loss of crops and trees especially along the conveyance pipeline.

The losses will include trees, both indigenous and the exotic, and food crops.



Photo 7-1: Maize Planted on the proposed Conveyance route



Photo 7-2: Indigenous Trees on the proposed Conveyance route

Mitigation:

- Regarding trees, cash crops, and other vegetation cover, this RAP proposes adequate time to be allowed for harvesting and sale. If this is not feasible then compensation to be done for the affected assets using market rates.
- PAP to be provided with at least three months' notice before displacement.
- Extra assistance for vulnerable groups in project area; they include the aged, disabled and female headed households in the form of transport assistance, priority in job allocation etc.
- Payment for facilitation and/or compensation should precede commencement of construction activities

7.2.4. PUBLIC UTILITIES

The proposed project avoided most community resources. The Public Utilities assessed in the study entailed, but was not limited to the following,

- Community run initiatives
- Schools
- Places of worship
- Recreational places

The proposed project traverses through the county government land.

8. VALUATION, COMPENSATION AND ENTITLEMENTS

8.1. INTRODUCTION

RAP exercise requires that properties identified within the way leave trace are valued for compensation to the PAPs with 'legitimate interest'. The terms legitimate interest has been used to mean that even those PAPs with no recognisable legal right or claim to the asset they are occupying or using are considered eligible for compensation. Generally, valuation is done on full replacement cost and open market value. Items to be compensated within the way leave trace include farmland, structures, trees and crops.

8.2. VALUATION PROCEDURE AND METHODOLOGY

8.2.1. LEGAL PROCEDURE

The procedure followed in this report are based on legal procedure outlined in the Valuers Act Cap 532, which requires that a duly authorised valuer be engaged in making cost valuation of assets to be possessed by any development project.

8.2.2. FAIR MARKET VALUE AND REPLACEMENT COST APPROACH

We adopted the 'willing-buyer-willing-seller' principle of Open Market Value (OMV) for valuation of land holdings and replacement cost approach for valuation of assets. Based on the material and condition of the target property.

8.3. VALUATION AND COMPENSATION RESULTS

8.3.1. VALUATION AND COMPENSATION OF LAND

Length of land taken\encumbered by the way leave trace was multiplied by the 6m width to yield area in square meters from which total acres on which easement would be taken was computed. This in was then multiplied by the open market prices for land within the target locality to yield an estimate of total cost of the land to be acquired for the way leave trace. Market values for land varied from place to place depending on: locality, land use, topography, prevailing climatic conditions and infrastructure.

The total area affected by the project works out to 72.79 acres. This is the amount of land that shall require compensation. The communal land, municipal land, and county land is not included since it shall not require compensation

However, since CRVWWDA is only taking an easement over the affected land while the titles remain with the landowners, it is only proper that loss of land use be compensated.

Based on the above, the total compensation cost for land works out to **KES 127,382,500.00**. The details of affected land and necessary compensation entitlements are provided as **Annex C** in Volume II report.

8.3.2. VALUATION AND COMPENSATION OF STRUCTURES

In valuing buildings and other structures, we used an estimate of the total effort invested in terms of building materials (floor, wall, roof type, finish and labour input) which we valued at market rates without factoring in depreciation. Based on the condition of the structure (poor, fair, good); consultations with property owners and contractors within project area; expert judgement and property comparison, we valued and allocated full replacement cost for each of the affected property.

This was done, bearing in mind that the fundamental requirement of resettlement activities is to restore, at least standards of living and *preferably* improve the livelihoods of the PAPs. A total of **72 structures** were identified and valued.

Using the full replacement cost principle and applying the market rates, the total compensation cost for all the affected structures works out to **KES 20,806,165.00**. This cost includes 15% disturbance allowance. The details of all the affected structures are provided as Annex A in Volume II Report.

Valuation of the graves should be considered where need be.

8.3.3. VALUATION AND COMPENSATIONS OF TREES AND CROPS

Compensation will be granted for those having annual and perennial crops. Harvesting of crops and trees will be given first priority but where harvesting will not be possible, counting of the affected crops will be carried out and values applied according to the market rates. During the field assessment, we estimated that **10,916 trees** will be affected within the way leave trace. We computed the compensation cost to **KES 11,832,000.00**.

For farm crops, we recommend that such crops be harvested by the owners and therefore no compensation will be paid. Planting season within the project area falls between the months of March and April. Harvesting season falls between September and October. In case crops are damaged during construction, proper compensation should be effected at market rates.

8.3.4. SUMMARY OF COMPENSATION COSTS

Based on the above Valuation procedures, the RAP consulting team came up with cost estimates for the RAP as illustrated in Table 8-1 below.

Table 8-1: Breakdown of Compensation Costs

<i>Item</i>	<i>Estimates (KES)</i>
Land	127,382,500.00
Structures	20,806,165.00
Trees and Crops	11,832,000.00.
Total	160,020,665.00

8.4. COMPENSATION FOR LOSSES

Compensation is one of the mitigation measures for the project impacts. The community members made the following recommendations regarding compensation.

- i. Compensation must be done before construction commences to avoid the possibilities of PAPs being short-changed
- ii. Community members should not be forced to accept compensation at Government rates
- iii. There should be prior and detailed arrangement with all affected persons before compensation is paid so that affected people are informed of compensation modalities

In Kenya, cash compensation is the most common compensation method. In the case of community preferring alternative compensation methods, we have recommended the following methods for consideration by the proponent.

- i. Land for land
- ii. Structure for structure

8.4.1. PAYMENT OF COMPENSATION

The African Development Bank Involuntary Resettlement Policy calls for full compensation prior to property demolition or displacement, all PAPs should receive in kind or cash compensation in a lump sum before project implementation commences. The AfDB resettlement policy recommends land for land compensation

in rural areas especially those relying heavily on farming as the project area was found to be. This RAP also recommends a land for land compensation however consultation with PAPs is recommended.

Before receiving their compensation, each PAP will have had chance to view their entitlement. The household entitlement will indicate details of their property valuation and compensation sum due. The compensation discussions will involve spouses as well so as to minimize conflicts and to ensure Project Affected Households, which include spouses and children, are taken care of. This is also enshrined in the Land Act (Amended) 2016 and Matrimonial Property Act 2013.

The PAP must sign acceptance of their entitlement upon reviewing and accepting the individual entitlement matrix. In addition, the claimant will be asked for identification and bank account. The project proponent will notify the PAPs through phone calls or through the local administration after depositing the compensation payments.

Exceptional situations will be dealt as follows:

- **Deceased Owners:** During RAP disclosure, PAPs will be informed of documentation required for deceased owners. On behalf of a deceased person, a representative of the deceased appointed by the family will receive compensation.
- **Female/child headed households:** During census and inventory there were no child headed households however there were a number of female headed households. Majority of the female headed households were as a result of death of the husband. This RAP recommends the proponent to treat female headed household heads the same way they would male headed household heads. This is in recognition to Land Act and Matrimonial property Act. The Matrimonial Property Act 2013 Part II (4) states that despite any other law a married woman has the same right as a married man to acquire, administer, hold, control, use and dispose of property whether movable or immovable. This Act also recognizes marriage under customary law of the community.
- **Disputed Ownership:** Verification through a letter from the Sub County land officer and letter from the chief and signed agreement from the family in case of a family dispute.

8.5. ELIGIBILITY, CUT-OFF DATE AND ENTITLEMENTS

8.5.1. ELIGIBILITY

This RAP shall be implemented in line with the laws of Kenya and the AfDB safeguarding policies. The land laws in Kenya allow compensation to affected people who are legal occupants of the land; however some kind of assistance or compensation can also be negotiated to people who occupy the land illegally.

All PAPs who will directly or indirectly have some type of losses in their possessions such as land, structures, crops, and economic trees, fruit trees and cultural sites among others should be compensated or at least facilitated depending on right of ownership and valuation of impacted loss/asset.

Part VIII of the land act No. 6 of 2012 (amended in 2016) allows for the National and County governments to acquire land in the public interest through National Land Commission. The assessment for compensation under this RAP is, therefore, statutory and all steps have been taken to comply with the statutory provisions.

The essential objective of the AfDB Involuntary Resettlement policy is to ensure that when people must be displaced they are treated equitably, and that they share in the benefits of the project that involves their resettlement. The borrowing agency also has the primary responsibility for planning, implementing and monitoring resettlement issues through a Resettlement Action Plan. In accordance with the involuntary resettlement policy, three groups of displaced persons are entitled to compensation or resettlement assistance for loss of land or other assets taken for project purposes:

- Those who have formal legal rights to land or other assets recognised under the Kenyan laws. This category generally includes people who are physically residing at the project site and those who will be displaced or may lose access or suffer a loss in their livelihood as a result of project activities.
- Those who may not have formal legal rights to land or other assets at the time of the census/ evaluation but can prove that they have a claim that would be recognised under the customary laws of Kenya. This category may include people who may not be physically residing at the project site or persons who may not have any assets or direct sources of livelihood derived from the project site, but who have spiritual and/or ancestral ties with the land and are locally recognised by communities as customary inheritors. Depending on the country's customary land use rights, they

may also be considered to have a claim if they are sharecroppers, tenant farmers, and seasonal migrants or nomadic families losing user rights.

- Those who have no recognisable legal right or claim to the land they are occupying in the project area of influence and who do not fall into either of the two categories described above, if they themselves or witnesses can demonstrate that they occupied the project area of influence for at least six months prior to a cut-off date established by the borrower or client and acceptable to the Bank. These groups may be entitled to resettlement assistance other than compensation for land to improve their former living standards (compensation for loss of livelihood activities, common property resources, structures and crops, etc.). Those who have no recognisable legal right or claim to the land they are occupying in the project area of influence and who do not fall into either of the two categories described above, if they themselves or witnesses can demonstrate that they occupied the project area of influence for at least six months prior to a cut-off date established by the borrower or client and acceptable to the Bank. These groups may be entitled to resettlement assistance other than compensation for land to improve their former living standards (compensation for loss of livelihood activities, common property resources, structures and crops, etc.).

The groups identified under AfDB's Resettlement Policy are also in line with those identified under World Bank OP 4.12 as those who are entitled to resettlement compensation as a result of involuntary displacement due to development projects. According to the World Bank OP 4.12 procedures, the following are eligible for compensation:

- Those who have formal rights to land;
- Those who do not have formal legal rights to land but can prove they have a claim, either through customary laws etc.; and
- Those who have no claim to land they are occupying or using.

8.5.2. CUT-OFF DATE

The cut-off date is the last day of the census of affected people and properties were considered by the RAP Team as the deadline. Structures or field established in the project-affected area after that date would not be eligible for compensation. This was explained during public consultations, census and valuation exercise and to all stakeholders in the project area. The cut-off date for the project was communicated as 11th June, 2022.

8.5.3. ENTITLEMENTS

We have developed an 'Entitlement Matrix' which identifies categories of affected people, type of loss associated with the project and types of compensation and/or assistance to which each category is entitled.

International guidelines such as African Development Bank Involuntary Resettlement Policy among others require compensation for the lost assets and replacement costs to both titled and non-titled landholders and resettlement assistance for lost income and livelihoods.

Absence of formal titles should not represent a barrier to compensation. Generally, the affected persons in the project area will be entitled to different forms of compensation and resettlement assistance that will help in the restoration of their livelihoods, to a minimum of what it was before the project in line with Involuntary Resettlement Policy. All people affected by land acquisition, and relocation and/or rehabilitation of structures/assets, are entitled to a combination of compensation measures and resettlement assistance, depending on the nature of ownership rights of lost assets and scope of the impact, including social and economic vulnerability of the affected persons

Table 8-2: Entitlement Matrix

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
Agricultural land	Less than 20% of land holding affected Land remains economically viable.	Farmer/ title holder	Cash compensation for affected land equivalent to replacement value or Market value
		Tenant/ lease holder	Cash compensation for the harvest or product from the affected land or asset, equivalent to average market value of last 3 years, or market value of the crop for the remaining period of tenancy/ lease agreement, whichever is greater.
	Greater than 20% of land holding lost Land does not become economically viable.	Farmer/ Title holder	Land for land replacement where feasible, or compensation in cash for the entire landholding according to PAP's choice. Land for land replacement will be in terms of a new parcel of land of equivalent size and productivity with a secure tenure status at an available location which is acceptable to PAPs. Transfer of the land to PAPs shall be free of taxes, registration, and other costs. Relocation assistance (costs of shifting + assistance in re-establishing economic trees + allowance up to a maximum of 12 months while short- term crops mature). Relocation assistance (costs of shifting + assistance in re-establishing economic trees + allowance up to a maximum of 12 months while short- term crops mature)
		Tenant/Lease holder	Cash compensation equivalent to average of last 3 years' market value for the mature and harvested crop, or market value of the crop for the remaining period of tenancy/ lease agreement, whichever is greater. Relocation assistance (costs of shifting + assistance in re-establishing economic trees + allowance up to a maximum of 12 months while short- term crops mature.

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
Commercial Land	Land used for business partially affected Limited loss	Title holder/business owner	Cash compensation for affected land Opportunity cost compensation equivalent to 5% of net annual income based on tax records for previous year (or tax records from comparable business, or estimates where such records do not exist).
		Business owner is lease holder	Opportunity cost compensation equivalent to 10% of net annual income based on tax records for previous year (or tax records from comparable business, or estimates where such records do not exist)
	Assets used for business severely affected If partially affected, the remaining assets become insufficient for business purposes	Title holder/business owner	Land for land replacement or compensation in cash according to PAP's choice. Land for land replacement will be provided in terms of a new parcel of land of equivalent size and market potential with a secured tenure status at an available location which is acceptable to the PAP. Transfer of the land to the PAP shall be free of taxes, registration, and other costs. Relocation assistance (costs of shifting + allowance) Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates)
		Business person is lease holder	Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates), or the relocation allowance, whichever is higher. Relocation assistance (costs of shifting) Assistance in rental/ lease of alternative land/ property (for a maximum of 6 months) to reestablish the business.
		Title holder	Cash compensation for affected land

**CENTRAL RIFT VALLEY WATER WORKS DEVELOPMENT
AGENCY (CRVWDA)**

Consultancy Services for Preparation of Detailed Design, Tender Documents and Supervision
of Works for Makutano Town Sewerage Project

Kenya Towns Sustainable Water Supply and Sanitation Programme

FINAL RAP REPORT

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
Residential Land	Land used for residence partially affected, limited loss Remaining land viable for present use.	Rental/lease holder	Cash compensation equivalent to 10% of lease/ rental fee for the remaining period of rental/ lease agreement (written or verbal)
	Land and assets used for residence severely affected Remaining area insufficient for continued use or becomes smaller than minimally accepted under zoning laws	Title holder	Land for land replacement or compensation in cash according to PAP's choice. Land for land replacement shall be of minimum plot of acceptable size under the zoning law/ s or a plot of equivalent size, whichever is larger, in either the community or a nearby resettlement area with adequate physical and social infrastructure systems as well as secured tenure status. When the affected holding is larger than the relocation plot, cash compensation to cover the difference in value. Transfer of the land to the PAP shall be free of taxes, registration, and other costs. Relocation assistance (costs of shifting + allowance)
Buildings and structures	Land and assets used for residence severely affected Remaining area insufficient for continued use or becomes smaller than minimally accepted under zoning laws	Rental/lease holder	Refund of any lease/ rental fees paid for time/ use after date of removal. Cash compensation equivalent to 3 months of lease/ rental fee. Assistance in rental/ lease of alternative land/ property. Relocation assistance (costs of shifting + allowance)
	Structures are partially affected	Owner	Cash compensation for affected building and other fixed assets. Cash assistance to cover costs of restoration of the remaining structure

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
	Remaining structures viable for continued use	Rental/lease holder	Cash compensation for affected assets (verifiable improvements to the property by the tenant). Disturbance compensation equivalent to two months rental costs
	Entire structures are affected or partially affected Remaining structures not suitable for continued use	Owner	Cash compensation for entire structure and other fixed assets without depreciation, or alternative structure of equal or better size and quality in an available location which is acceptable to the PAP. Right to salvage materials without deduction from compensation Relocation assistance (costs of shifting + allowance) Rehabilitation assistance if required (assistance with job placement, skills training)
		Rental/lease holder	Cash compensation for affected assets (verifiable improvements to the property by the tenant). Relocation assistance (costs of shifting + allowance equivalent to four months rental costs). Assistance to help find alternative rental arrangements Rehabilitation assistance if required (assistance with job placement, skills training)
		Squatter/informal dweller	Cash compensation for affected structure without depreciation Right to salvage materials without deduction from compensation Relocation assistance (costs of shifting + assistance to find alternative secure accommodation) to area where he/she can live and work legally preferably in the community of residence through involvement of the project Alternatively, assistance to find accommodation in rental housing or in a squatter settlement scheme, if available Rehabilitation assistance if required assistance with job placement, skills training)

**CENTRAL RIFT VALLEY WATER WORKS DEVELOPMENT
AGENCY (CRVWDA)**

Kenya Towns Sustainable Water Supply and Sanitation Programme

Consultancy Services for Preparation of Detailed Design, Tender Documents and Supervision
of Works for Makutano Town Sewerage Project

FINAL RAP REPORT

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
		Street vendor (informal without title or lease to the stall or shop)	Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates), or the relocation allowance, whichever is higher. Relocation assistance (costs of shifting) Assistance to obtain alternative site to re-establish the business.
Standing crops	Crops affected by land acquisition or temporary acquisition or easement	PAP (whether owner, tenant, or squatter)	Cash compensation equivalent to average of last 3 years market value for the mature and harvested crop.
Trees	Trees lost	Title holder	Cash compensation based on type, age and productive value of affected trees plus 10% premium
Temporary Acquisition	Temporary acquisition	PAP (whether owner, tenant, or squatter)	Cash compensation for any assets affected (e. g. boundary wall demolished, trees removed)
Community property			In kind replacement or compensation at replacement cost for land and structures

9. GRIEVANCE REDRESS MECHANISM

9.1. INTRODUCTION

Regardless of scale and level of planning, involuntary resettlement inevitably gives rise to grievances among affected population. Timely redress of such grievance is vital to the satisfactory implementation of resettlement and the completion of the project in schedule.

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

Although grievance mechanism seeks to resolve issues quickly so as to speed up acknowledgment of entitlements and smooth resettlement without resorting to costly and prolonged legal procedures, it does not replace the existing legal processes. Legal redress in courts of law is sought if this process fails to provide a settlement.

9.2. POTENTIAL RESETTLEMENT GRIEVANCES

Potential grievances and disputes that may arise in the course of implementation of the RAP may be related to the following:

- i. Valuation process;
- ii. Inventory mistakes;
- iii. Mistakes related to identification and disagreements on boundaries between the PAPs;
- iv. Disagreements on compensation values;
- v. Divorces, successors and the family issues resulting into ownership disputes;
- vi. Disputed ownership of a given asset; and
- vii. Disagreements on location of settlement.

9.3. PROPOSED GRIEVANCE MANAGEMENT AND REDRESS MECHANISM

During implementation of RAP, any of the above-mentioned grievances may occur. The same shall be resolved using the proponent's grievance redress mechanism.

CRVWWDA has put in place a standard operating procedure that seeks to manage complains in a planned and systematic manner. This is meant to facilitate speedy resolution of disputes and grievances and also to provide trust and build a positive rapport with the PAPs. The steps for grievance redress are as follows:

- i. **First Order Mechanism:** First order mechanism involves registration of the grievances with the Resettlement Working Group (RWG), to be established by CRVWWDA. The RWG will then seek to eliminate nuisance claims and satisfy legitimate claimants by attempting to reconcile the aggrieved PAP(s) and CRVWWDA. The RWG will respond within two (2) weeks.
- ii. **Second Order Mechanism:** Where the complaint and grievance cannot be resolved by the RWG, the complained is referred to the Tribunal of Public Complaints Committee (PCC)
- iii. **Third Order Mechanism:** In instances where the Public Complaints Committee is unable to resolve the matter, the same will be referred to the Courts for settlement. Kenyan citizens and legal entities have access to court recourse in conformance with applicable laws. The aggrieved PAP(s) have the right to pursue the matter up to the Supreme Court if necessary.
- iv. **Fourth Order Mechanism:** Expropriation of land will be used as a last resort when all of the above procedures have either failed or extensive delays to the project are foreseen. Expropriation means taking away of private land and landed property for public purpose by the Government with or without the owner's consent subject to laws of eminent domain, which stipulates prompt and adequate compensation among other things.

9.4. GRIEVANCE REDRESS COMMITTEE

9.4.1. COMPOSITION OF THE COMMITTEE

The grievance committee is proposed at the local level and this may constitute the following people taking into consideration of the 2/3 gender rule.

- Location Chief
- Sub Location Chief
- Village Administrator – County Government
- Village leader
- Two representatives of Project Affected Persons (1 Male and 1 Female)
- A representative of the implementing agency

9.4.2. DUTIES AND RESPONSIBILITIES OF THE COMMITTEE

Arbitration and negotiation based on just and fair hearing of the cases of the parties in dispute between PAPs and the implementing agencies would be the main function of the committee. The committee is expected to give solution to grievances related to compensation amount, address delays in compensation payment or granting of other forms of resettlement support. The committee shall sit once in a month during implementation of Resettlement Action Plan.

Special arrangements should be made for women and other vulnerable groups to ensure that they have equal access to redress procedures. This include deployment/ representation of women or other vulnerable groups in grievance committees to facilitate the redress process or ensure that groups that are representing interests of women and other vulnerable groups take part in the process.

The duties and responsibilities were identified as:

- a) Committee will assist in resolving conflicts and disputes at the two levels.
- b) The committee should be a link between the consultant and the project affected persons.
- c) Disseminate information on behalf of the proponent to the project affected persons.
- d) Lead by example and guide project affected persons on what the project requires of them.
- e) Provide solutions and give recommendations on how to address land conflicts within the community.

- f) Assist the consultant (proponent) in identifying communal property like schools and any other property of sentimental value like graves etc.
- g) Receive information on behalf of the project affected persons
- h) Allowed to give recommendations on what mitigation measures on conflicts and issues which need to be incorporated in the RAP report.

10. INSTITUTIONAL ARRANGEMENTS

10.1. INTRODUCTION

A successful implementation of the plan depends majorly on the institutional and organisational arrangements made for its implementation. The implementation of the RAP rests with CRVWWDA and specifically, their Resettlement Project Team (RPT). The RPT will implement this plan in consultation with the PAPs, PDPs, Key stakeholders, County Administration and the local administration. The collaboration from all the above through a properly constituted structure will lead to transparency in the implementation.

10.2. ORGANIZATION STRUCTURE

10.2.1. RESETTLEMENT PROJECT TEAM

A specific RPT for this project will be established by CRVWWDA to manage the RAP process and will comprise of a socio-economist, surveyor, way leave officer, environmental specialist, water engineer, land valuer, legal officer and building technician. The Roles and responsibilities of the RPT will include but not limited to:

- i. Public sensitization of all stakeholders and on-going community engagement;
- ii. Socio-economic survey to identify the PAPs;
- iii. Establish eligibility for compensation;
- iv. Valuation of loss of use of assets i.e. land, structures and crops/trees;
- v. Determination of compensation for loss of employment/incomes and loss of business;
- vi. Offer compensation options – including cash and resettlement alternatives;
- vii. Deliver prompt compensation/resettlement;
- viii. Undertake transfer of lands for the vulnerable PDPs;
- ix. Be a member of the grievance procedure; and
- x. Monitoring, evaluation and reporting.

10.2.2. RESETTLEMENT WORKING GROUP (RWG)

This RAP will be implemented in partnership with all relevant key stakeholders not limited to governmental, non-governmental and community organisations. An RWG

will act as the primary channel of communication between these various interest groups/organizations involved in the resettlement process. The RPT will where necessary instate a dedicated RWG to address all concerns and grievances which may occur. The RWG will comprise the local leaders and PAP (community) representatives. The roles and responsibilities of the RWG will include but not limited to:

- i. Act as the primary channel of communication between the various interest groups/organizations involved in the resettlement process;
- ii. Serve as communication link between CRVWWDA and the PAPs; and
- iii. Serve as the court of first appeal to solve problems that may arise during RAP's implementation.

10.2.3. LOCAL RAP PAP COMMITTEES (PC)

The committee shall be the local level representation of PAPs in the locations or sub-locations and will act as a voice for the PAPs. During the public consultation meetings, the members expressed their desire to have a transparent and an all-inclusive compensation process. The committee shall comprise of the following:

- i. Chairman – a PAP, appointed or elected by area PAPs
- ii. Secretary – a PAP, appointed or elected by area PAPs
- iii. 2 members nominated by the PAPs (Gender to be considered)
- iv. Village elder(s)/ community elder(s)/ as would be appointed/elected/deemed necessary by area PAPs
- v. Local area Assistant County Commissioner, Chief or Assistant Chief.
- vi. Ward Administrator

The establishment of the committee will be based on the magnitude, length and the number of Sub-Counties impacted by the project.

11. RAP IMPLEMENTATION SCHEDULE AND BUDGET

11.1. INTRODUCTION

Efficient RAP implementation requires a properly constituted administration structure. This section provides an overview of the project's institutional framework and the roles and responsibilities of institutions and stakeholders for organization and implementation of RAP.

The RAP implementation schedule defines the duration and timing of the key milestones and tasks. The major component tasks for the schedule include:

- Disclosure of RAP
- Audit of PAP register and compensation package due to each PAP
- Resolution of emerging grievances
- Notification of PAPs prior to the commencement of the activities that will affect them
- Compensation and/or supplementary assistance
- Commencement of project operations
- Monitoring and evaluation

11.2. PROJECT ORGANISATIONAL STRUCTURE

The organisational structure provides an overview of the interactions between the different actors on the project implementation. The Government of Kenya through the Ministry of Water and Irrigation (CRVWWDA) who are the Client and the Executing Agency respectively, will work in consultation with the West Pokot County Government and other National Authorities such as NEMA and WRA. Seureca East Africa Limited is the technical implementation Consultant who will play an intermediary role and ensure flow of information between the different actors.

11.2.1. PROJECT IMPLEMENTATION UNIT (PIU) TEAM

This team will consist of at least the following key personnel:

- Project Manager – Design & Construction (MOWI/CRVWWDA);
- Head of Financial Services (MOWI/CRVWWDA);
- RAP Expert/ Sociologist
- Property Valuer.
- Land surveyor

The team reports to the Project Manager. The PIU will be in charge of the implementation of the proposed project and the RAP in compliance with the approved process, which includes the following:

- Implementing executive decisions as far as the implementation of the various components of the RAP is concerned;
- Coordinating inter-departmental and Inter-Ministerial communication e.g. with Ministry of Lands with the County Governments Office;
- Certifying that the project complies with both GOK and international best case practise guideline, including implementation of the RAP, as required;
- Ensure collection of initial baseline data for the purposes of monitoring and evaluation report as per the indicators provided by the RAP;

- Employ the services of contractors and consultants to carry out preparation and implementation of RAP and subsequent engagement of the service of external monitors for the RAP implementation;
- Approval of payments to consultants for RAP activities carried out;
- Preparation of quarterly and annual progress reports on RAP implementation;
- Ensure participation of the affected people in the planning of their resettlement and post resettlement circumstances.

11.3. RAP IMPLEMENTATION BUDGET

The Valuer's computations of value of affected land, structures and crops determines the compensation and resettlement budget. Asset valuations added to RAP implementation will derive overall RAP budget that entails both resettlement and implementation.

The assets of the affected PAPs are described based on their nature. The valuation identified a total of 71 PAPs, some of the PAPs were affected in more than one way as shown below (See Valuation Register Annexures A, B and C

- Loss of land
- Loss of trees and crops
- Loss of buildings/structures, and community assets

The total RAP implementation costs add up to **Kenya Shillings 182,842,731.50**. These project costs will also include cost of monitoring the project to ensure that the PAPs regain their livelihoods as they were before the project.

Table 11-1: RAP implementation budget estimates

Item	Compensation Estimates (KES)
Compensation	
Compensation for Easement over Land	127,382,500.00
Compensation for Affected Structures ³	20,806,165.00
Compensation for Trees and Crops	11,832,000.00
Sub-Total (ST1)	160,020,665.00
Technical Assistance	
Formation of Local RAP PAP Committees	700,000.00
Monitoring and Evaluation	3,000,000.00
Final Valuation and Verification of Assets	2,500,000.00
Sub-Total (ST2)	6,200,000.00
Total (ST1+ST2)	166,220,665.00
Contingency (10%)	16,622,066.50
Grand Total	182,842,731.50

³ Inclusive of inclusive of 15% disturbance allowance

11.4. RAP IMPLEMENTATION SCHEDULE

The following schedule provides a recommended time for RAP implementation including the various responsibility assignments. Before commencement of civil works, a notice over a period of 3 months is proposed and monitoring of RAP implementation to be carried out throughout the construction period and the Defects Liability Period. The RAP implementation unit would be constituted soon after approval of the RAP Report by the Government of Kenya through CRVWWDA and the Bank

Table 11-2: RAP Implementation Schedule

PROJECT ACTIVITIES	RESPONSIBILITY	CONSTRUCTION PERIOD						
		1	2	3	4	5	6	7-18
Stakeholder consultations/ RAP	CRVWWDA, Consultant							19
RAP Approval	AfDB and NEMA							
Monitoring of RAP	Internal, External Auditors							
Training GRC and PAPs	CRVWWDA							
Signing compensation Agreements	CRVWWDA							
Resolution of Conflicts and Grievances	GRC							
Compensation (cash/kind)	CRVWWDA, NLC							
Notice - 3-month notice	CRVWWDA							
Actual construction	CONTRACTOR							
Livelihood restoration programs/CSRs	CRVWWDA, West Pokot County, NGO/CBOs							
RAP completion audit	Internal and External Auditors							

12. MONITORING AND EVALUATION

12.1. INTRODUCTION

In order to guarantee that the compensation plan is smoothly performed and the benefit of the affected persons be well treated, the implementation of the compensation plan will be under monitoring throughout the whole process.

The goal of Monitoring is to evaluate the effectiveness of RAP implementation. The RAP components monitored shall include resettlement, disbursement of compensation funds, and public involvement. Monitoring will also cover evaluation of effectiveness of the grievance management process and livelihood restoration programs.

Monitoring and evaluation activities should be integrated into the overall project management process and the RAP must provide a coherent monitoring plan that identifies the organizational responsibilities, methodology, and the schedule for monitoring and reporting.

12.2. MONITORING

12.2.1. PURPOSE

The purpose of monitoring is to provide project management and the PAPs, with timely, concise, indicative information whether compensation, resettlement and other impact mitigation measures are on track to achieve sustainable restoration and improvement in the welfare and livelihood of the affected people, or that adjustments are needed. Monitoring ensures that:

- i. Actions and commitments for compensation, resettlement, land access, and development in the RAP are implemented fully and on time;
- ii. Entitled persons receive their compensation and replacement of structures in time;
- iii. Compensation and livelihood investments are achieving sustainable restoration and improvement in the welfare of the PAPs and host communities;
- iv. Complaints and grievances are followed up with appropriate corrective action;

- v. Vulnerable persons are tracked and assisted as necessary; and
- vi. Data for final evaluation of the project is available.

12.2.2. MONITORING FRAMEWORK

The monitoring will consist of internal monitoring by CRVWWDA as an integral part of the proponent's management of the project and external monitoring by an appointed consultant, working with the impacted communities.

Periodic monitoring of RAP implementation to the extent provided and agreed in the relevant finance documents of the Project will also be carried out by social or resettlement specialist from Ministry of Water and Sanitation and/or through its benefiting agency North Rift Valley Water Works Development Agency and Central Rift Valley Water Works Development Agency (the project proponent) and occasionally AfDB (the Bank).

Monitoring will be divided into two parts, i.e. internal and external monitoring.

12.2.3. INTERNAL MONITORING

Internal monitoring of RAP implementation will be undertaken by CRVWWDA. Regular progress reports will be prepared and submitted by the RPT to CRVWWDA management. The internal monitoring will look at inputs, processes, and outcomes of compensation, resettlement and other impact mitigation measures. Input monitoring will establish if staff, organization, finance, equipment, supplies and other inputs are on schedule, in the requisite quantity and quality.

- **Process monitoring:** Assess program implementation strategies and methodologies and the capacity and capability of program management personnel to effectively implement and manage the RAP process. It will also document lessons learned and best practices and provide recommendations to strengthen the design and implementation of the RAP
- **Output monitoring:** Will be used to establish if agreed outputs are realized on time for: Communication with the affected communities; agreed resettlement and compensation policy, procedures, and rates; compensation for crops, buildings, and lost business; grievance resolution; and vulnerable people.
- **Outcome or Effective Monitoring:** Will be used to determine the level of achievement of resettlement objectives.

12.2.4. EXTERNAL MONITORING AND EVALUATION

The proponent will appoint a consultant to work closely with the project-affected communities to track the progress of the RAP implementation. The appointed consultant should have relevant experience in the conduct of resettlement, hands on experience in monitoring and evaluation and proven ability to identify actions that improve implementation and mitigate negative impacts of resettlement.

External monitoring will serve the purposes of compliance monitoring and impact evaluation. The overall objective of external monitoring will be to:

- i. Review the results of internal monitoring and review overall compliance of RAP
- ii. Assess whether relocation objectives have been met especially with regard to housing, living standards, and compensation levels among other parameters
- iii. Assess general efficiency, sustainability and effectiveness of relocation and formulate lessons for future resettlement activities.

12.2.5. MONITORING INDICATORS

An indicator is a quantitative or qualitative factor or variable that provides a simple and reliable means to measure achievement, to reflect the changes connected to an intervention, or to help assess the performance of a party or institution. Or, a variable that allows the verification of changes in the development intervention or shows results relative to what was planned.

The establishment of appropriate indicators in the RAP is essential since what is measured is what will be considered important. Indicators will be created for affected people as whole, for key stakeholder groups and special categories of affected persons such as women, children, elderly and other vulnerable groups. Key performance indicators for monitoring are commonly divided into five categories namely:

- Input indicators: resources e.g. human resource, equipment and materials that go into the RAP e.g. sources and amount for funding various RAP activities;
- Output indicators: the activities and services produced with the inputs;
- Process indicators: the quality and quantity of access and services of the activities and services e.g. creation of grievance mechanism;

- Outcome indicators are the delivery of compensation and other mitigation to avoid economic and physical displacement caused by the project. They measure whether compensation has been paid and received and whether the affected population were able to use the compensation payment for investment that would give them sustained income;
- Impact indicator assesses the changes in the medium- and long-term measurable results in behaviour, living standards and associated conditions. The aim is to establish whether the RAP is effective in maintaining or restoring the social and economic conditions especially of social groups such as women and elderly and social institution such as the family and community.

Table 12-1: Monitoring Indicators

Subject	Indicator	Variable
Land	Relocated PAPs	<ul style="list-style-type: none"> • Area of cultivation land acquired • Area of communal land acquired • Area of private land acquired • Area of government land acquired
Buildings/ Structures	Number of buildings to be demolished	<ul style="list-style-type: none"> • Number, type and size of private buildings acquired • Number, type and size of community buildings acquired • Number, type and size of government buildings acquired
	Number of other structures to be demolished	<ul style="list-style-type: none"> • Number, type and size of other private structures acquired • Number, type and size of other community structures acquired
	Number of trees to be cleared	<ul style="list-style-type: none"> • Number and type of trees cut • Age size at girth level
Compensation, establishment and Rehabilitation	Value of crops to be destroyed	<ul style="list-style-type: none"> • Crops destroyed by area, type and ownership
	Number of PAPs compensated	<ul style="list-style-type: none"> • Number of households affected (buildings, land, trees, crops) • Number of owners compensated by type of loss • Amount compensated by type and owner • Number of replacement houses constructed • Size, construction, durability and environmental suitability of replacement houses
	Number of community resources re-established	<ul style="list-style-type: none"> • Number of community buildings replaced • Number, type of plants lost • Number of seedlings supplied by type • Number of trees planted
Hazards Disturbances	Number of complaints received from PAPs	<ul style="list-style-type: none"> • Number of households affected by hazards and disturbances from construction (noise levels, blasting, increased traffic levels)
Social/ Demographic	Changes to household structure	<ul style="list-style-type: none"> • Household size (births, deaths, migration in and out) • Age distribution • Gender distribution

Subject	Indicator	Variable
		<ul style="list-style-type: none"> • Marital status • Status of vulnerable households
	Population migration	<ul style="list-style-type: none"> • Residential status of household members
	Changes to access	<ul style="list-style-type: none"> • Movement in and out of the household (place and residence of household members)
	Changes to health status	<ul style="list-style-type: none"> • Distance/travel time to nearest school, health Centre, church, shop, village • Nutritional status of resettled household members • Number of people with disease, by type (sexually transmitted diseases, diarrhea, malaria) • Mortality rates • Access to health care services (distance to nearest facility, cost of services, quality of services) • Utilization of health care services • Disease prevention strategies • Extent of educational programmes • Latrine provision at schools (schoolchild population per latrine on site)
	Changes to educational status	<ul style="list-style-type: none"> • Literacy and educational attainment of household members • School attendance rates (age, gender). Number, type of educational establishments
	Changes to status of women	<ul style="list-style-type: none"> • Participation in training programmes • Use of credit facilities • Land holding status

13. CONCLUSION AND RECOMMENDATIONS

13.1. CONCLUSIONS

The report has been prepared in line with the laws of Kenya and AfDB safeguard policies on involuntary resettlement. These laws and regulations require that a RAP be prepared for all projects that anticipate acquisition of land, way leave access/easement, displacement of persons and interference with livelihoods of people.

This RAP has, to the extent possible and with the proponent assistance, identified and presented an inventory of all the people to be affected by the construction of the line and proposed a compensation package for the identified impacts.

All compensation is based on market values and full replacement cost approach. This is in line with the laws of Kenya, the AfDB safeguard policies and international best practices. Additionally, detailed negotiations with the PAPs will be carried out before compensations are made.

13.2. RECOMMENDATIONS

From the study findings, we recommended as follows:

- 1. Consultations:** Project affected persons should be consulted continuously about the resettlement plan and implementation of the same prior to commencement of construction activities. Particular attention should be given to vulnerable groups such as the elderly, female headed households, the sick, the orphans and the squatters.
- 2. Compensation:** The compensation package provided in this report is based on market rates. We recommend that same should be made before commencement of the construction through the proponent office. A minimum of three (3) months' notice should be given to the PAPs to enable them salvage all their assets. In case cash compensation would not be the preferred option, the proponent should consider other methods of compensation such as *land for land* and *structure for structure*. In the case of absentee landowners or compensation under dispute, CRVWWDA should set aside sufficient funds in an escrow account or similar financial instrument to cover unpaid compensation. Graves should also be compensated where need arises.
- 3. Monitoring and Evaluation:** Monitoring and evaluation should be a continuous process. CRVWWDA will be responsible for all aspects of internal monitoring. An external consultant, if deemed appropriate, knowledgeable in resettlement matters should be appointed to carry out external monitoring and evaluation.

4. **Community Expectations:** The PAPs raised numerous issues for the attention of the project proponent. These issues should be taken seriously to minimize complaints, grievances and potential delays. CRVWWDA should establish its RWG in order to deal with any grievances in a timely fashion.
5. **Livelihood Restoration:** A Livelihood Restoration & Improvement Program to be developed covering the PAPs and host community. It should include impacts and mitigation for impacts on host communities such as pressure on available resources etc.
6. **CSR Activities:** The proponent should undertake CSR activities in project area as form of developing good rapport with the community. This RAP proposes the following activities to be undertaken;
 - ✓ Support in agricultural activities through Government extension services and infrastructural development. In particular livestock dips, weather alerts, agricultural research and climate early warning which the socio-economic survey found to be the least accessible in project area.
 - ✓ Building of recreational facilities by project proponent, in project area there are few recreational facilities and the PAPs indicated that their inclusion in the project would be important.
7. **Project Acceptance:** The community have accepted the project and are willing to support it until its implementation. CRVWWDA is advised to speed up the compensation process and make the valuation as fair as possible as per the market costs.
8. **Residual Compensation:** CRVWWDA should consider residual compensation for the households living next to the WWTP. This will promote the relationship between the community and the project

14. REFERENCES

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West Pokot County Integrated Development Plan 2013-2017.

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15. ANNEXES

ANNEX A: Valuation of Structures affected

ANNEX B: Valuation of Trees and Crops affected

ANNEX C: Valuation of Land affected

ANNEX D: List of Key Informants Consulted

ANNEX E: Minutes of the Public Participation

ANNEX F: Public Participation Attendance List

ANNEX G: Inventory of PAPs and Property Affected