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SANITATION AND
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**WATER SECTOR
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**WATER
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**Regional Centre on Groundwater
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OASIS OF GROUNDWATER KNOWLEDGE

**REGIONAL CENTRE ON
GROUNDWATER RESOURCES**

MINISTRY OF WATER, SANITATION AND IRRIGATION

HORN OF AFRICA GROUND WATER FOR RESILIENCE PROJECT

RESETTLEMENT POLICY FRAMEWORK (RPF)

FEBRUARY 2022



**MARSABIT COUNTY
GOVERNMENT**



**TURKANA COUNTY
GOVERNMENT**



**GARISSA COUNTY
GOVERNMENT**



**WAJIR COUNTY
GOVERNMENT**



**MANDERA COUNTY
GOVERNMENT**

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ABBREVIATIONS & ACRONYMS

AAD&MP	Aquifer Assessments, Development and Management Plans
AIDS	Acquired Immune-Deficiency Syndrome
ARAP	Abbreviated Resettlement Action Plan
ASALs	Arid and Semi-arid Lands
CDD	Community Driven Development
CIDP	County Integrated Development Plan
CLA	Community Land Act
CLMC	Community Land Management Committee
CoK	Constitution of Kenya
COVID-19	Corona Virus Disease 2019
CSOs	Civil Society Organizations
DA	Designated Account
ESF	Environmental and Social Framework
ESIA	Environmental and Social Impact Assessments
ESMF	Environmental and Social Management Framework
ESS	Environment and Social Standards
GCA	Ground Conservation Area
GBV	Gender Based Violence
GDP	Gross Domestic Product
GM	Grievance Mechanism
GoK	Government of Kenya
GRS	Grievance Redress Service
HIV	Human Immunodeficiency Virus
HOA	Horn of Africa
HOAGW4R	Horn of Africa Ground Water for Resilience Project
IAs	Implementing Agencies
IDP	Internally Displaced Person
IGAD	Intergovernmental Authority on Development
IRM	Immediate Response Mechanism
IQSK	Institute of Quantity Surveyors of Kenya
IVA	Independent Verification Agency
KFS	Kenya Forestry Services
KWS	Kenya Wildlife Society
LPs	Livelihood Plans
MAR	Managed Aquifer Recharge
M&E	Monitoring and Evaluation
MDA	Ministries, Departments and Agencies
MoA	Ministry of Agriculture
MoU	Memorandum of Understanding
MoWSI	Ministry of Water, Sanitation and Irrigation
NBS	Nature-based Solutions
NDMA	National Disaster Management Authority
NEDI	North and North-Eastern Development Initiative
NEMA	National Environment Management Authority
NGOs	Non-Government Organization
NLC	National Land Act
O&M	Operations and Maintenance
OCHA	Office for the Coordination of Humanitarian Affairs
PAPs	Project Affected Parties/Persons
PCU	Project Coordination Unit
PDO	Project Development Objective

PIU	Project Implementing Unit
PWD	Persons with Disabilities
RAP	Resettlement Action Plan
RPF	Resettlement Planning Framework
RPF	Resettlement Policy Framework
SEAH	Sexual Exploitation, Abuse and Harassment
SEP	Stakeholder Engagement Plan
ToR	Terms of Reference
UN	United Nations
WASREB	Water Services Regulatory Board
WRA	Water Resources Agencies
WRMA	Water Resources Management Authority
WRUAs	Water Resource Users Associations
WSTF	Water Services Trust Fund
WWDA	Water Works Development Agencies

DEFINITION OF KEY TERMS

These definitions are as stated in the World Bank Environment and Social Framework (ESF) Environment and Social Standard (ESS)5 and ESS5 Guidance note.

Terminology	Definition
Census	A complete and accurate count of the population that will be affected by land acquisition and related impacts. When properly conducted, the population census provides the basic information necessary for determining eligibility for compensation and for preparing and implementing Resettlement Action Plan (RAP).
Compensation	When land acquisition or restrictions on land use (whether permanent or temporary) cannot be avoided, the Borrower will offer affected persons compensation at replacement cost, and other assistances may be necessary to help them improve or at least restore their standards of living or livelihoods.
Cut-off date	The date the census and assets inventory of persons affected by the project begins. Persons encroaching on the project area after the cut-off date are not eligible for compensation and/or any other type of resettlement assistance.
Displaced Persons	The people or entities directly affected by a project through the loss of land and the resulting loss of residences, other structures, businesses, or other assets.
Eligibility	The criteria for qualification to receive benefits under a resettlement program.
Forced eviction	Forced eviction is defined as the permanent or temporary removal against the will of individuals, families, and/or communities from the homes and/or land which they occupy without the provision of, and access to, appropriate forms of legal and other protection, including all applicable procedures and principles in ESS5.
Grievance Mechanism	Complaint mechanism is a locally based formalized way through which project affected people and communities may raise their concerns directly with the project when they believe the project has caused or may cause them harm. The Grievance Mechanism ensures that complaints are being promptly received, assessed, and resolved by those the responsible for the project.
Host Community	A host community is any community of people living in or around areas to which people physically displaced by a project will be resettled.
Household	The term household refers to a group of people who reside together and share in the functions of production and consumption. It is also the smallest unit of consumption, and sometimes production.
Household Head	For purposes of a census, the household head is that person among the household members who is acknowledged by other members of the household as the head and who is often the one who makes most decisions concerning the welfare of the members of the household.
Involuntary Resettlement	Project-related land acquisition or restrictions on land use may cause physical displacement (relocation, loss of residential land or loss of shelter), economic displacement (loss of land, assets, or access to assets, including those that lead to loss of income sources or other means of livelihood), or both. The term “ <i>involuntary resettlement</i> ” refers to these impacts. Resettlement is considered involuntary when affected persons or communities do not have the right to refuse land acquisition or restrictions on land use that result in displacement.
Land Acquisition	<i>Land acquisition</i> refers to all methods of obtaining land for project purposes, which may include outright purchase, expropriation of property and acquisition of access rights, such as easements or rights of way. Land acquisition may also include: (a) acquisition of unoccupied or unutilized land whether or not the landholder relies upon such land for income or livelihood

Terminology	Definition
	<p>purposes; (b) repossession of public land that is used or occupied by individuals or households; and (c) project impacts that result in land being submerged or otherwise rendered unusable or inaccessible.</p> <p>“Land” includes anything growing on or permanently affixed to land, such as crops, buildings and other improvements, and appurtenant water bodies.</p>
Livelihood	Refers to the full range of means that individuals, families, and communities utilize to make a living, such as wage-based income, agriculture, fishing, foraging, other natural resource-based livelihoods, petty trade, and bartering.
Livelihood Restoration	Livelihood Restoration means the measures required to ensure that Project Affected Persons (PAPs) have the resources to at least restore, if not improve, their livelihoods. It requires that people are given the means and assistance necessary for them to improve, or at least restore, their livelihood and living conditions to pre-project levels. Inventory of losses means the pre-appraisal inventory of assets as a preliminary record of affected or lost assets.
Project Affected Person (PAP)	<p>PAPs are persons on whom the project has a direct economic and social impact. The impact may be caused by the involuntary taking of land resulting in:</p> <ul style="list-style-type: none"> a) relocation or loss of shelter. b) loss of assets or access to assets. c) loss of income sources or means of livelihood whether the person should move to another location; or d) By the involuntary restriction of access to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced persons.
Replacement Cost	<p><i>Replacement cost</i> is defined as a method of valuation yielding compensation sufficient to replace assets, plus necessary transaction costs associated with asset replacement. Where functioning markets exist, replacement cost is the market value as established through independent and competent real estate valuation, plus transaction costs. Where functioning markets do not exist, replacement cost may be determined through alternative means, such as calculation of output value for land or productive assets, or the undepreciated value of replacement material and labour for construction of structures or other fixed assets, plus transaction costs. In all instances where physical displacement results in loss of shelter, replacement cost must at least be sufficient to enable purchase or construction of housing that meets acceptable minimum community standards of quality and safety. The valuation method for determining replacement cost should be documented and included in relevant resettlement planning documents. Transaction costs include administrative charges, registration or title fees, reasonable moving expenses, and any similar costs imposed on affected persons. To ensure compensation at replacement cost, planned compensation rates may require updating in project areas where inflation is high or the period between calculation of compensation rates and delivery of compensation is extensive.</p>
Resettlement	Resettlement covers all direct economic and social losses resulting from land taking and restriction of access, together with the consequent compensatory and remedial measures.
Resettlement Action Plan	This is the planning document that describes what will be done to address the direct environmental, social and economic impacts associated with involuntary taking of land.
Resettlement Entitlements	Resettlement entitlements, with respect to a particular eligibility category, are the sum total of compensation and other forms of assistance provided to displaced persons in the respective eligibility category.
Restrictions on land use	<i>Restrictions on land use</i> refers to limitations or prohibitions on the use of agricultural, residential, commercial, or other land that are directly introduced and put into effect

Terminology	Definition
	as part of the project. These may include restrictions on access to legally designated parks and protected areas, restrictions on access to other common property resources, restrictions on land use within utility easements or safety zones.
Stakeholder	<i>Stakeholder</i> refers to individuals or groups who: (a) are affected or likely to be affected by the project (<i>project-affected parties</i>); and (b) may have an interest in the project (<i>other interested parties</i>).

EXECUTIVE SUMMARY

Background

1. Kenya is one of the five countries that plans to implement the Horn of Africa Ground Water for Resilience Project (HOAGW4R). The other four countries are Somalia, Ethiopia, Sudan, and Djibouti. The HoA is characterised by under-development, resource scarcity, conflict and violence, economic shocks, food insecurity and climate change impacts. The Project is being prepared in consultation and collaboration with Horn of Africa (HoA) target countries and the Intergovernmental Authority on Development (IGAD) to strengthen resilience to climate through groundwater management and exploitation.

2. Kenya is a water-scarce nation with 622 m³ per capita of annual renewable freshwater supplies and 83% of its land being classified as ASALs. The country has a highly variable climate and an economy vulnerable to climate shocks. Kenya's high climatic and hydrologic variability results in frequent droughts and floods. Between 1990 and 2015, a drought occurred every 2.5 years and affected about 4.8 million people each time. Over the long term, floods and droughts cost the economy about 2.4 percent of Gross Domestic Product (GDP). This exacerbates considerable inequalities among different regions of the country in terms of access to water and sanitation. Despite increased investments in rural groundwater infrastructures, drying boreholes and high borehole failure rates increase the vulnerability of rural communities living in ASAL counties.

3. The effects of natural and infrastructure gaps are exacerbated by institutional challenges. Despite previous attempts in 2006 and 2013 to formulate a groundwater policy, the coming into force of the revised Constitution of Kenya (CoK) 2010, and the adoption of the new 2016 Water Act to align the water sector with the devolution process, made groundwater aspects lag. Moreover, institutional, and regulatory gaps exist in aquifers that cross basins, counties, and countries, such as the Daa and the Merti, which are shared with Ethiopia and Somalia, respectively. The project will be implemented in Marsabit, Moyale, Garissa, Turkana, and Wajir Counties, which form the main part of ASALs in Kenya.

Project objectives and components

4. The overarching objective of the HOAGW4R is "To increase the sustainable use and management of groundwater by beneficiary groups in the Horn of Africa." To achieve the objective, four intervention components will be implemented as detailed further below. The Kenya program's components, whose focus on groundwater management, development, and use contributes to climate change adaptation and co-benefits in Kenya in two ways: (i) building the capacity of groundwater institutions will equip key actors with the requisite know-how to anticipate groundwater impacts and manage groundwater potential and possibilities for the counties; and (ii) the project's development and rehabilitation of groundwater infrastructure will augment the availability of freshwater to enhance climate change adaptation.

5. The project will have four components, thus:

- i. Strengthening the enabling environment for sound groundwater development and management;
- ii. Groundwater Infrastructure and Inclusive Community Level Use;
- iii. Project Management Support; and
- iv. Contingent Emergency Response Component.

6. The project beneficiaries include the institutions that work on groundwater at the transboundary, national, and subnational levels. These include the Ministry of Water Sanitation and Irrigation (MoWSI), the Water Resources Agency (WRA), Water and Sanitation Trust Fund (WSTF), the Regional Center on Groundwater, the National Disaster Management Authority (NDMA), the Water Services Regulatory Board (WASREB), the Water Works Development Agencies (WWDAs), and County Water Departments of ASAL counties. The project is estimated to reach 1,300,000 people through the rehabilitation and construction of boreholes.

Purpose of RPF

7. The World Bank Environmental and Social Standard 5 (ESS5) *Land Acquisition, Restriction on Land Use and Involuntary Resettlement* provides that project-related land acquisition and restrictions on land use can have adverse impacts on communities and persons. It may cause physical displacement (relocation, loss of residential land or loss of shelter), economic displacement (loss of land, assets, or access to assets, leading to loss of income sources or other means of livelihood), or both. Resettlement is considered involuntary when affected persons or communities do not have the right to refuse land acquisition or restrictions on land use that result in displacement.

8. Under component 2 of the project, the following activities will be implemented that have necessitated the development of this RPF.

- i. *Rehabilitation and upgrading of groundwater rural water supply schemes.* This activity will primarily finance civil works of rehabilitating about 250 boreholes and construction of about 30 high yield boreholes. The rehabilitation scope of work will vary depending on the system but will typically include test pumping, borehole re-casing and development, retrofitting existing diesel pumping sets with solar PV pumping systems, improving water storage, expanding water distribution networks, adding more public standpipes (water kiosks), and livestock watering troughs. A detailed set of criteria for prioritizing borehole rehabilitation and expansion will be developed during the inventory but may generally include water schemes that serve a greater number of people, institutions (such as schools and health centres) and livestock, as well as boreholes with high yield.
- ii. Development and management of aquifer recharge and other groundwater conservation infrastructure, i.e., the establishment of WRUAs, gazettement of aquifer recharge zones and completion of procurement packages for the recharge infrastructure.
- iii. The protection and conservation of natural recharge zones and the development, O&M of prioritized Managed Aquifer Recharge (MAR).
- iv. infrastructures, including subsurface dams, sand dams, micro-dams and/or infiltration ponds.

9. The purpose of the RPF is to clarify resettlement principles, organizational arrangements, and design criteria to be applied to subprojects to be prepared during project implementation. Once the subprojects are defined and the necessary information is available, specific plans (resettlement action plan)/abbreviated resettlement action plan – RAP/ARAP) will be prepared proportionated to the potential risks and impacts.

10. The RPF presents: (i) the relevant policy and legal framework pertaining to involuntary resettlement; (ii) anticipated potential project impacts and mitigation provisions; (iii) eligibility criteria for compensation; (iv) valuation methods for compensation of asset categories; (v) steps for RAP/ARAP preparation, implementation, and monitoring; and (vi) disclosure requirements.

Review of legal, regulatory and policy framework

11. There are many legal frameworks that regulate land related issues in Kenya. These frameworks define land rights, ownership, procedures and requirements of transfer and acquisition of land between individuals and groups. They also provide procedures for the acquisition of land by the state or a public body for public projects. Among the most important legal instruments in this regard are the CoK, 2010; Land Act 2012; Community Land Act (CLA) 2016, National Land Commission (NLC) Act 2009; Valuer's Act Cap 532; Land Registration Act 2012; the Companies Act Cap 486; and the States Corporation Act Cap 446.

12. The Project will comply with the World Bank's safeguard policy on involuntary resettlement, ESS5, where involuntary resettlement, impacts on livelihoods, acquisition of land or restrictions to access to natural resources, may take place because of the project. Where there is a discrepancy between national laws and ESS5, the higher of the two standards will be followed as outlined in this policy framework.

Potential project impacts and mitigations

13. According to project component 2, the anticipated social and economic impacts of the project include those itemized below. The environmental impacts have been extensively addressed in the ESMF for this project. The RPF recognizes any eligible impact but focuses on those which are more likely to happen: loss of land; loss of housing; loss of crops and trees; impacts on livelihoods; loss of businesses and customers; loss of employment; and loss of communal assets/services and cultural heritage. **NOTE:** This list is not exhaustive and, during specific assessments, a detailed description of project impacts will be presented in the specific RAPs, ARAPs and compensation notes, where necessary.

14. Provisions are made under this RPF and the related safeguard instruments including the Environmental and Social Management Frameworks (ESMF) and Stakeholder Engagement Plan (SEP) to minimize all such impacts. Provisions are also made in this RPF to accommodate all potential and/or unforeseen situations and assistance needed in accordance with ESS5. Every precaution will be taken by MoWSI to avoid physical resettlement.

15. The potential social economic impacts to be addressed within the context of preparing this RPF have been identified. However, site-specific assessment studies will be carried out within specific localities, as and when required. The framework for the compensation/resettlement will then be applied incorporating specific: (i) institutional arrangements; (ii) resettlement/compensation eligibility criteria; (iii) implementation procedures; (iv) financial responsibilities; and (v) a monitoring and evaluation (M&E) plan.

Category of project affected persons

16. Affected communities under subproject investments in this RPF will include:

- Affected households: A household is affected if one or more of its members are affected by subprojects, either by loss of property, land and access, or otherwise his or her livelihood could be affected in any way by project activities;
- Affected individual: An individual who suffers loss of land, property, other assets, or investments made on land, livelihood, and/or access to natural and/or economic resources because of the subproject investments; and
- Disadvantaged and vulnerable individuals and groups: these may be individuals or part of a household that may have different land needs from most households or needs unrelated to the amount of land available to them, for example: poor female/child-headed households; extremely poor; persons with disability (PWD); minority clans/sub-clans.

Eligibility for compensation

17. Determination of the eligibility of the bona fide occupants/owners of the assets/properties to be compensated shall be done through a transparent and legal process, taking into consideration all the existing laws of Kenya and policies of the World Bank. Compensation will be paid to all categories of PAPs as described in the eligibility criteria and entitlement matrix section of this RPF. All those persons enumerated before the cut-off date will be eligible for compensation. This RPF applies to all eligible persons regardless of the severity of impact and whether they have legal title to land.

Valuation methods for compensation

18. Valuation is the process of determining the value of land or an asset that PAPs possesses or uses. Valuation for all assets will be required for: land including grazing areas, farmlands, rangeland, and any other livelihood uses; any structures and fixtures; and cultivated crops (both cash and food crops); and trees. The compensation for crops will be paid as per rates recommended by KFS and Ministry of Agriculture (MoA) for crops and trees, respectively.

Project screening and preparation

19. Potential socio-economic impacts that will require mitigation measures, resettlement and compensation will be identified. The subprojects will be screened to establish whether involuntary

resettlement, land acquisition, or loss, denial, or restriction of access to land and other economic resources will be caused by the implementation of the subproject or whether the subproject will result in the permanent or temporary loss of crops, fruits and household infrastructures such as granaries, outside toilets, kitchens, and other structures. This will be done as per the screening form in Annex 1.

Preparation of RAPs

20. Once the decision is made on the location of a given subproject, MoWSI will do screening and attendant environmental assessment. Based on the outcomes of the screening exercise, i.e., extent and severity of impacts, then the safeguards documents to be prepared to guide resettlement will either be a RAP, ARAP as the case will be. The steps to be undertaken in the preparation of each individual RAP/ARAP will include: an agreed consultation process and channels; a socioeconomic survey; an identification of PAPs; PAP census and inventory of the affected assets; description of eligibility criteria; and compensation process. Consultation with PAPs and other stakeholders will run throughout the RAP or ARAP according to agreed procedures and processes. An ARAP is prepared for projects with minor land acquisition, fewer than 200 PAPs, and no physical relocation. The level of due diligence and detail in process and outcome documentation for an ARAP is like that in a RAP.

Community sensitization

21. Communities within project areas will be sensitized by MoWSI on the project and likely project impacts, and the extent of their involvement to ensure project success. Measures instituted to address negative project impacts will be well communicated to the community members for their concurrence.

Public consultations and participation

22. As per the requirements of the World Bank's ESS10, the borrower or client is responsible for conducting and providing evidence of meaningful consultation with communities likely to be affected by E&S impacts, and with other local stakeholders, and for ensuring broad community support. During implementation, PAPs will be informed about their rights and options. An accessible grievance mechanism (GM) will be set-up in consultation with the PAPs and other key stakeholders, and all grievances will be recorded and acted upon. Consultations on this RPF were conducted and information received is presented in the chapter two.

23. The participation of local leaders in disseminating information and resolving disputes will be important even before RAP preparation and implementation starts. PAP representatives will participate in the preparation and monitoring of subprojects and at the end of RAP implementation to evaluate and audit the success and challenges of the project.

Documentation

24. The names, identification documents, contact numbers, addresses, and affected assets of each affected person will be compiled and kept in a database, including claims. The records are also important especially for future monitoring activities. Documentation will include documents relevant to land transactions.

Procedure for acquisition of community land

25. The Community Land Act (2016) Section 2 defines community as "consciously distinct and organized users of community land who are citizens attributed to common ancestry, culture, or unique mode of livelihood, socio-economic or other common interests, geographical or ecological space and ethnicity." Communities in dry lands can be grouped into nomadic, semi-nomadic, transhumant, and sedentary smallholder agricultural populations. Nomadic people are found in pastoral groups that depend on livestock for subsistence and, where possible, farming as a supplement. The Community Land Regulation (2018) operationalizes the Community Land Act 2016. It provides for recognition and protection of community land rights, registration, administration, and management of community land through Community Land Management Committees (CLMC) and the Community Assembly.

26. It is notable that some of the five counties involved in the proposed project have already registered and/or are in the process of registering community lands. The project team will be required, with the participation of the County Government and the Implementing Agencies (IAs), to utilize some of the following strategies in acquiring land for the proposed investments. For those investments to be done on public and private land, the laid down procedures as provided for the National Land Act (2012) will be followed.

27. For registered community land, the principal title is vested in Communities at registration and the certificate of title issued by the Registrar will serve as prima facie evidence of the community as the absolute and indefeasible owner, except where the title has been obtained frequently (CLA s. 18). The CLA makes provision for individuals, families, and other customary groups or new groups formed by community members, such as a cooperative or association, to be acknowledged as the owners of rights to particular parts of the community's domain (CLA s. 14).

28. The CLA makes specific provision on land requirements for investment, including that each request is subject to consultation and agreement with the community. A community may also determine terms of any lease and establish requirements for the investor to conserve and rehabilitate lands (CLA s. 37). The HOAGW4R project shall consult with all stakeholders extensively and partner with Communities benefiting from the project. The process will include:

- a) Background check (due diligence carried out on the ownership, access, and use) - the project will conduct a search at the county registry to determine its registration status and validity of the CL title;
- b) Structured consultations and sensitization with the CLMC and Community Assembly;
- c) Observe due diligence in terms of the approved survey, physical planning maps;
- d) Clear conditions for benefit sharing/community benefits when establishing partnerships for investment;
- e) The Community, through a resolution of the Community Assembly, approve and consent to the project to access land using a prescribed community Land resolution and agreement form developed by the project after negotiations. The Community will adopt the prescribed form and record in its Community Assembly meetings;
- f) Approval of investment agreements/Partnership/MoU by 2/3 of County Assembly evidenced through minutes of the assembly;
- g) Approvals from other state agencies where applicable, e.g., National Environmental Management Agency (NEMA), Water Resource Authority (WRA), Kenya Forest Service (KFS), Kenya Wildlife Service (KWS); among others; and
- h) Project Implementation.

29. Process for access to unregistered community land will entail:

- a) Background check (due diligence carried out on the ownership, access and use);
- b) Structured consultations and sensitization with the National and County Governments and political leadership up to the local level.
- c) Structured consultations with the Community structures, e.g., community leaders, clan elders and other gatekeepers including community-based organizations (CBOs) and faith-based organizations (FBOs) for buy-in.
- d) Clear conditions for benefit sharing/community benefits when establishing partnerships for investment.
- e) The Community will give consent vide a prescribed form for the investment (see Annex 5 for a sample of this form).
- f) Approval of investment agreements/Partnership/MoU must be done by a majority of community members and recorded as minutes.
- g) The County Government will facilitate the partnership process and any required land use planning processes.

- h) Approvals from other state agencies where applicable, e.g., NEMA, WRA, KFS, KWS, among others; and
- i) Project Implementation.

30. Based on the outputs of the aquifer assessments conducted in component one, the WRA, in consultation with county governments and the NLC, will demarcate certain land areas to be classified as protected aquifer recharge zones via a Gazette Notice. Protected recharge zones that have been gazetted will also be included in the County Integrated Development Plans (CIDPs). The goal of establishing protected recharge zones is to safeguard the areas against risks such as physical deterioration, including loss of exposed surface area, change in land-use patterns, and pollution caused by chemical and other pollutants. In conjunction with affected stakeholders, including communities, the WRA will develop a set of criteria for designating a land area as a protected aquifer recharge zone. For areas that have been formally gazetted, the Water Resources Authority (WRA) will work with the WRUAs to enforce and monitor the implementation of appropriate measures, such as regulations on groundwater extraction and use, rules on afforestation and deforestation, prohibition of waste disposal, and regulation of land use practices near recharge zones, among others.

31. Under the Water Act 2016, section 23, WRA has the following mandate:

- (i) Where the Authority is satisfied that in any area, special measures for conservation of groundwater are necessary in the public interest for:
 - The protection of public water or water supplies used for industry, agriculture or private purposes
 - the conservation of the water resources of the aquifer/groundwater resources or
 - ecological reasons, it may by order published in the gazette, declare the area to be a groundwater conservation area
- (ii) The Authority may impose such requirements or prohibit such conduct in relation to a Ground Conservation Area (GCA) as it may consider necessary for the conservation of the groundwater
- (iii) The Cabinet Secretary (CS) may make regulations for the better carrying into effect of this section

32. Under the seventh schedule of the WRM Regulation 2007 outlines the process to be followed including the development of management guidelines through a consultative process. This will require WRA to work with the other key stakeholders in ensuring these provisions are implemented.

Procedure for delivery of compensation

33. Consultations with and public participation of the PAPs will initiate the compensation process to ensure that all affected individuals and households are well informed and adequately involved in the entire process. Those who hold title to the land resources will be duly informed and in case there are no clearly identified owners or users of land to be acquired, MoWSI, the respective county and national government administrators through the lands officers and the local leaders of the respective communities where the land is located, will be solicited to help identify owners or users to sensitize them on the project and its implications. Compensation payment will be made to the PAPs on the amount of compensation agreed and documented.

Grievance mechanism

34. Grievance procedures are required to ensure that PAPs and other key stakeholders can lodge complaints or concerns, without cost, and with the assurance of a timely and satisfactory resolution of the issue, at the lowest level possible. The GM suggested will be firmed up in consultation with the PAPs to ensure acceptability and ownership at the time of preparation of specific ARAP/RAP/Compensation note.

RPF implementation and monitoring

35. The implementing agencies for HOAGW4R in Kenya are MoWSI, the WRA, the Regional Center on Groundwater, NDMA, Water Services Regulatory Board (WASREB), Water Works Development Agencies (WWDAs), and County Water Departments of five ASAL counties. A dedicated project Coordination Unit (PCU) will be created in MoWSI with the purpose to ensure smooth implementation of the project. There will be a PIU in each of the implementing partners offices – WRA and WSTF to undertake the day-to-day functions of the project. The PCU will have responsibilities for implementing and monitoring this RPF and subsequent RAPs.

36. Monitoring and evaluation will be the main mechanisms to alert MoWSI of any delays and problems. These activities will help to measure the extent to which the main objectives of the RPF have been achieved. To ensure that the implementation of resettlement is executed in line with this RPF, the activities will be monitored and evaluated internally by the project PCU. The PIUs will undertake the routine internal M&E of the implementation of this RPF and the requirements of each provision to ensure that all the responsible units follow the schedule and comply with the principles of the resettlement plan.

Monitoring and evaluation (M&E) team

37. The M&E team, which will be part of the PCU and the PIUs will be responsible for monitoring the RAP implementation to ensure that the targets are met, and PAPs are duly compensated in line with the RAP and RPF requirements. Objectively verifiable indicators shall be used to monitor the impacts of compensation and resettlement activities. Evaluations will be made to determine whether the PAPs have been paid in full and before implementation of the individual subproject activities, and whether the PAPs enjoy the same or higher standards of living than before. Some of the indicators include number of PAPs resettled; amounts of compensations disbursed; number of grievances raised and resolved; number of consultation forums held; among others.

Roles and responsibilities

38. The implementation of project activities will be the responsibility of MoWSI PCU. The IAs, respective county governments and Ward Development Committees will be involved in all aspects of the project including planning, assessments, RAP preparation, implementation and monitoring and evaluation (M&E). There are other institutions who might be affected by the project and whose input/services might be required to ensure smooth implementation of RAP and the project at large. Key among them include Kenya Forest Service (KFS); Kenya Wildlife Service (KWS); National Environment Management Authority (NEMA); Ministry of Agriculture; Ministry of Lands; and County commissioners representing national government at the county level. **NOTE:** This list is however not exhaustive and may be expanded after the specific subproject area of impacts and community's involved is sought during consultations on RPF and RAP.

Borrower capacity in implementing safeguards

39. The MoWSI has implemented and is currently implementing projects funded through the Bank. It has put structures in place to respond to the various Bank requirements. It continues to undertake regular capacity building and sharing experiences on lessons learnt in resettlement planning and implementation. In this project, the PCU and PIUs of the IAs will engage the services of social specialists which will oversee all aspects of the RFP and RAPs. The PCU will ensure that environmental and social issues are taken care of during project preparation, implementation, monitoring and evaluation. In the event there will be need for external capacity to prepare the project specific safeguards instruments and implement requisite mitigation measures, the PCU will recruit either on a short-term or long-term basis (this could be through secondment from another Ministry or Government agency).

Budget and funding

40. At this stage, it is not possible to confirm the exact number of people who may be affected by the project. This is because the sites and detailed construction/rehabilitation of water infrastructure have not yet been finalized and the land needs have not yet been fully identified. The RAP implementation budget

will be clearly articulated in the resettlement documents. The budgets will cover resettlement activities including compensation cost for affected assets. It will be the responsibility of MoWSI to avail the compensation funds and ensure timely delivery.

Disclosure

41. This RPF will be disclosed in compliance with relevant Kenyan regulations and ESS10. This is after the documents have been approved by the World Bank. The document will be disclosed at the Info shop of the WB and MoWSI and partner websites and will also be available to any stakeholders upon request especially those who cannot access the website. The MoWSI will also provide copies of the approved RAPs for disclosure at the WB Info shop and MoWSI and partner websites and at the local project level for ease of access.

CHAPTER 1. INTRODUCTION

1.1 Background

1. This Resettlement Policy Framework (RPF) has been developed by the Government of Kenya for the Horn of Africa Ground Water for Resilience Project (HOAGW4R) to be funded by the World Bank. The RPF is one of the environmental and social (E&S) instruments required to address and manage E&S impacts associated with the HOAGW4R project under the World Bank's Environmental and Social Framework (ESF). The Project is being prepared in consultation and collaboration with Horn of Africa (HoA) target countries and the Intergovernmental Authority on Development (IGAD) to strengthen resilience to climate through groundwater management and exploitation.

2. The HOAGW4R will be implemented in five countries: Kenya; Somalia; Ethiopia; Sudan; and Djibouti. The HoA is characterised by under-development, resource scarcity, conflict and violence, economic shocks, food insecurity and climate change impacts. The climate is characterized by short rainy seasons and recurrent droughts with about 30% of the region classified as Arid and Semi-Arid Lands (ASALs). Approximately 70% of the population live in rural areas and experience high levels of poverty (from 69.4% in Somalia to 22.5% in Djibouti) and high unemployment rates. Most of the population depends on rainfed agriculture and pastoralism for their livelihoods. The HoA is also home to many displaced people, including countries of origin (Somalia), and countries of asylum (Ethiopia and Kenya), as well as internally displaced populations, especially in Somalia.

1.2 Kenya Context

3. Kenya is a water-scarce nation with 622 m³ per capita of annual renewable freshwater supplies and 83% of its land is classified as ASALs. The country has a highly variable climate and an economy vulnerable to climate shocks. Kenya's high climatic and hydrologic variability results in frequent droughts and floods. Between 1990 and 2015, a drought occurred every 2.5 years and affected about 4.8 million people each time. Over the long term, floods and droughts cost the economy about 2.4 percent of Gross Domestic Product (GDP). This exacerbates considerable inequalities among different regions of the country in terms of access to water and sanitation. Average access to at least basic water services¹ increased from 47 percent in 2000 to 59 percent in 2017, but access to at least basic sanitation services² regressed from 34 percent in 2000 to 29 percent in 2017. In the North and North-Eastern Development Initiative (NEDI) counties, only 45 percent of households have access to improved water and only 36 percent have access to improved sanitation.

4. Despite increased investments in rural groundwater infrastructure, drying boreholes and high borehole failure rates increase the vulnerability of rural communities living in ASAL counties. The lack of knowledge about the groundwater resources and the weak operations and maintenance (O&M) of rural boreholes are among the main factors for this high borehole failure rate. Various studies indicate that up to about two-thirds of rural water systems in the ASALs of Kenya become severely dysfunctional within 3-5 of construction. Although the knowledge about groundwater availability and quality in Kenya has improved over the past three decades, there is still considerable uncertainty about the available information and its use for management purposes. The most recent estimate of sustainable groundwater yield of 2,597 MCM/a and the actual use estimate of 152 MCM/a (or total permitted allocation of 346 MCM/a) indicates a very large scope for developing groundwater for productive uses nationally.

5. The effects of natural and infrastructure gaps are exacerbated by institutional challenges. Despite previous attempts in 2006 and 2013 to formulate a groundwater policy, the coming into force of the revised Constitution of Kenya (CoK) 2010, and the adoption of the new 2016 Water Act to align the water sector with the devolution process, made groundwater aspects lag. Moreover, institutional, and

¹ Drinking water from an improved source, provided collection time is not more than 30 minutes for a roundtrip including queuing.

² Use of improved facilities which are not shared with other households.

regulatory gaps exist in aquifers that cross basins, counties and countries, such as the Dauda and the Merti, which are shared with Ethiopia and Somalia, respectively.

1.3 HOAGW4R geographic scope in Kenya

6. The project will be implemented in Marsabit, Moyale, Garissa, Turkana and Wajir Counties as shown in Figure 1, which form main part of ASALs in Kenya. The ASALs occupy 89% of the country and are home to about 14 million people and approximately 70% of the national livestock herd. The defining feature of the ASALs is **their aridity**. Annual rainfall in arid areas ranges between 150mm and 550mm per year, and in semi-arid areas between 550mm and 850mm per year. Livestock in the arid and semi-arid areas (ASALs) includes donkeys, camels, cattle, sheep and goats. The dry zone support 50% of the cattle, 55% of the goats, 75% of the sheep and nearly all the camels in Kenya.

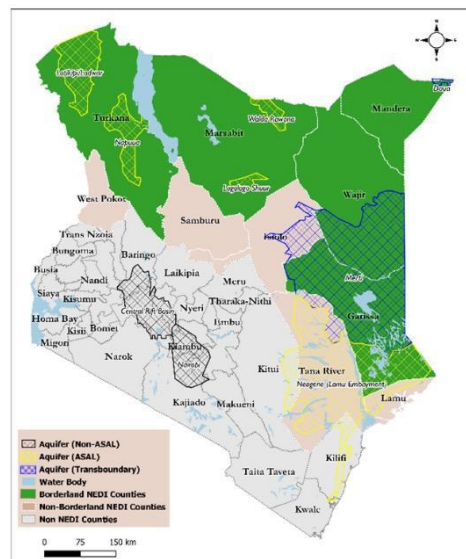


Figure 1. Map of project areas

7. The people living in the ASALs are mainly pastoralists and derive their livelihood from keeping livestock. Crop farming is rare except along the permanent course of the river Tana. Apart from providing a livelihood, livestock is also a symbol of social status. With the increasing population, there has been a trend towards sedentarisation of communities, which has greatly interfered with the traditional grazing patterns. Migration of people from high potential areas into drier lands in search of space for cultivation is not only causing degradation of vegetation and erosion but is also changing socio-economics and general environmental conditions.

8. Water in the drylands is generally scarce, with only a few rivers and perennial streams. The lakes are generally saline due to high evaporation and the major sources of reliable water are wells and boreholes established at strategic watering points. Unfortunately, watering points have turned out to be centres of vegetation and environmental degradation due to concentration of high population pressure and grazing.³

1.4 Project Development Objective (PDO)

9. The overarching objective of the HOAGW4R is **“increase the sustainable access and management of groundwater in the Horn of Africa borderlands.”** To achieve the objective, four intervention components will be implemented as detailed further below. The Kenya program’s components, whose focus on groundwater management, development, and use contributes to climate change adaptation and co-benefits in Kenya in two ways.

10. First, building the capacity of groundwater institutions will equip key actors with the requisite know-how to anticipate groundwater impacts and manage groundwater potential and possibilities for the counties.⁴ Groundwater must be used and managed sustainably in order to maintain its buffer and contingency supply capabilities. The capacity to sustainably manage groundwater as a finite resource and protect its recharge mechanisms will contribute to a reduction in future water scarcity and the associated ills of protracted droughts. Moreover, as water-related hazards exacerbate inequalities disproportionately

³ Kigomo N.B. 2001 *State of Forest Genetic Resources in Kenya*. Sub-Regional Workshop FAO/IPGRI/ICRAF on the conservation, management, sustainable utilisation and enhancement of forest genetic resources in Sahelian and North-Sudanian Africa (Ouagadougou, Burkina Faso, 22-24 September 1998). Forest Genetic Resources Working Papers, Working Paper FGR/18E. Forestry Department, FAO, Rome, Italy.

⁴ <https://www.un-igrac.org/areas-expertise/groundwater-climate-change>.

felt by vulnerable communities, climate-resilient groundwater infrastructure is key for development and poverty reduction.⁵

11. Secondly, the project’s development and rehabilitation of groundwater infrastructure will augment the availability of freshwater to enhance climate change adaptation. Building and rehabilitating infrastructure to actively enhance groundwater recharge (Managed Aquifer Recharge (MAR)) can help recover groundwater levels and improve water quality in over-exploited aquifers and store potable water for future use.

1.5 Project Description - Components, Subcomponents and Activities

12. The four components of the project together consist of sub-components and 15 core activities as summarized in Table 1.

Table 1: Project components and activities

#	Component	Sub-component	Activities
I	Groundwater Infrastructure and Inclusive Community Level Use	1A. Development of nature-based solutions for strengthening conservation, sustainable use, and recharge of the seven NEDI aquifers	<ul style="list-style-type: none"> Establishment, mobilization, and capacity building of WRUAs covering the selected NEDI aquifers areas.
			<ul style="list-style-type: none"> Implementation of Sub-catchment management plans by Water Resource Users Associations (WRUAs).
			<ul style="list-style-type: none"> Protection of aquifer recharge zones through gazettement and investments in Nature-Based Infrastructure Solutions for aquifer recharge. Guided by both the Aquifer Development and Management Plans and the Sub-catchment Management Plans.
		1.B. Rehabilitation of groundwater rural water supply schemes, enhancement of the National Disaster Management Authority (NDMA) designated drought-response strategic boreholes network (DSBN) and mainstreaming O&M of groundwater infrastructure in the five borderland NEDI counties	<ul style="list-style-type: none"> Inventory of groundwater rural water supply schemes and the NDMA-designated drought strategic borehole network.
<ul style="list-style-type: none"> Strengthening and enhancement of the DSBN through rehabilitation and upgrading of existing boreholes and drilling of new high yielding wells. 			
ii	Strengthening the enabling environment for sound groundwater development and management	2A. Strengthening the enabling environment and the institutional capacity for developing and managing groundwater sustainably	Finalization of the Transboundary Water Policy and Strengthening Regional Dialogue and Collaboration on the Transboundary Aquifers, including Daua and Merti.
			Finalization of the National Groundwater Development and Management Strategy and National Groundwater Regulations and Guidelines.
			Comprehensive Training and Capacity.
			Acquisition of various Groundwater Management equipment
			Aquifer Assessments, Development and Management Plans (AAD&MP) for selected aquifers in NEDI ⁶ .

⁵ https://www.hydrology.nl/images/docs/ihp/2016.05_GRAPHIC_Groundwater_and_Climate_Change.pdf

⁶ The selection of these aquifers is pending confirmation. A consulting firm is doing an assessment of the readiness of the pre-selected aquifers and will work to ensure that no important and relevant aquifers are not address under the program. Initial candidates are the Daua Parma *alluvial aquifer*, Merti *aquifer*, Neogene (Lamu Embayment) *aquifer system*, Lotikipi *Basin aquifer system*, Lodwar/Napuu *aquifer system*, Walda/Rawana *aquifer system*, and the Logologo-Shuur *aquifer system*.

#	Component	Sub-component	Activities
		2B. Groundwater & Drought Information Enhancement	Establishing a monitoring network in the selected aquifers of NEDI and linking these to the upgraded Groundwater Management Information System (GMIS), including creating a mobile App to boost user interface and reporting on boreholes.
III	Project Management Support	This component provides technical and operational assistance to the Project Coordination Unit (PCU) and the Project Implementation Units (PIUs) to manage the project.	
IV	Contingent Emergency Response Component	This zero-cost component will finance eligible expenditures under the Immediate Response Mechanism (IRM) in case of natural or man-made crises or disasters, severe economic shocks, or other crises and emergencies in Kenya.	

1.6 Project Beneficiaries

13. The project will benefit the institutions of Kenya that work on Groundwater at the transboundary, national, and subnational levels. These include the MoWSI, the Water Resources Agency (WRA), the Regional Center on Groundwater, the NDMA, the Water Services Regulatory Board (WASREB), the Water Works Development Agencies (WWDAs), and County Water Departments of ASAL counties. By giving more visibility to groundwater through policies, strategies, regulations and guidelines, the institutions and groundwater management will be strengthened. These institutions will also benefit from training, capacity building programs and the acquisition of equipment.

14. The project is estimated to reach 1,500,000 people through the rehabilitation and construction of boreholes. The people will also benefit from the aquifer restoration, recharge, and conservation activities, including:

- Rural communities including disadvantage and vulnerable individuals and groups who do not have access to clean water for domestic use.
- Livestock owners who travel long distances in search of water for their livestock.
- Women and girls who walk long distances, exposing themselves to numerous social risks, in search of water for domestic use; and
- Urban populations, who depend on rural groundwater sources that is trucked into cities by private operators, sold at often exceedingly high prices.

1.7 Purpose of Preparing RPF

15. The World Bank Environmental and Social Standard 5 (ESS5)—*Land acquisition, Restriction on Land Use and Involuntary Resettlement*—provides that project-related land acquisition and restrictions on land use can have adverse impacts on communities and persons. It may cause physical displacement (relocation, loss of residential land or loss of shelter), economic displacement (loss of land, assets, or access to assets, leading to loss of income sources or other means of livelihood), or both. Resettlement is considered involuntary when affected persons or communities do not have the right to refuse land acquisition or restrictions on land use that result in displacement.

16. The project has prepared this RPF to ensure that appropriate measures are put in place to address any issues that might arise from potential land acquisition and/or economic displacement under the project. Given that the exact site locations have not been determined, and the Project Affected Parties (PAPs) are not yet known, the RPF is considered the most appropriate instrument to guide resettlement activities under the project. Once subproject locations are defined, and the necessary information becomes available, the project will prepare site-specific Resettlement Action Plans (RAPs), or Livelihood Restoration Plans (LRPs) and land agreements, proportionate to the potential physical or economic displacement risks. No physical and/or economic displacement or construction will occur until plans and documentation required by ESS5 have been finalized and approved by the World Bank.

1.8 Scope of the RPF

17. The RPF covers the following elements, consistent with the provisions described under ESS5:
 - i. Description of the project and components for which land acquisition and resettlement are required;
 - ii. Principles and objectives governing resettlement preparation and implementation;
 - iii. Project anticipated impacts and related mitigation measures, a description of PAPs including making provision to accommodate all potential situations and any cases that may entail actual displacement and livelihood restoration assistance;
 - iv. Description of the process for preparing RAPs, principles and procedures governing RAP preparation and implementation, including processes for carrying out socio-economic surveys, PAPs census and asset inventory as well as a consultation process that will ensure meaningful participation and involvement of PAPs;
 - v. Estimated population displacement and likely categories of displaced persons, to the extent feasible;
 - vi. Eligibility criteria for defining various categories of PAPs, entitlements for different categories and eligibility criteria for compensation of the identified categories;
 - vii. Legal framework reviewing the fit between borrower laws and regulations and Bank policy requirements, and measures proposed to bridge any gaps between them;
 - viii. Methods for asset inventory and valuation, listing of different assets lost that are eligible for compensation including engaging in a participatory process;
 - ix. Organizational arrangements for implementing and management of RPF including responsibilities for screening subprojects and evaluating impacts and preparing RAPs;
 - x. Description of the implementation process, linking resettlement implementation to civil works;
 - xi. Description of project grievance mechanism (GM);
 - xii. Description of the arrangements for funding resettlement, including the preparation and review of cost estimates, the flow of funds, and contingency arrangements;
 - xiii. Description of mechanisms for consultations with, and participation of, displaced persons in planning, implementation, and monitoring;
 - xiv. Arrangements for monitoring and reporting by the implementing agencies (IAs) and, if required, by independent monitors; and
 - xv. Disclosure arrangements.

CHAPTER 2. RPF DEVELOPMENT AND IDENTIFICATION OF POTENTIAL PROJECT IMPACTS

18. This RPF has been prepared through literature review and stakeholder consultations. The literature reviewed included relevant national legislation, policies, and guidelines; Project Appraisal Document (PAD), World Bank Environment and Social Framework and Standards (ESF/ESSs) and ESS5 Guidance Note. Other RPFs developed by Kenya Borrowers have also been reviewed for consistency and concurrence, especially on land issues. The first consultation was held on November 21, 2021, at Sarova Panafric Hotel, Nairobi with HoAGW4R project county stakeholders (Minutes in Annex 10). The second stakeholder consultations were held virtually on 1st February 2022 (see Annex 11 for minutes, participants' list, and comments on the project). The third consultation was held online on March 1, 2022 (see Annex 12 for Minutes).

19. During the preparation of the RPF, the Government of Kenya was cognizant of the potential impacts, both negative and positive, on the lives of people in the five target counties (Marsabit, Mandera, Wajir, Garissa and Turkana). This project will require land for the investments and the process of acquisition needs to be defined before the implementation of the project investments. The following activities under Component II, *Groundwater Infrastructure and Inclusive Community Level Use*, will require access to land, and this is the focus of this RPF.

20. Component II comprises two interrelated subcomponents: (a) Subcomponent 2A which will focus on: (i) the establishment and capacity building of Water Resources Users Associations (WRUAs) along with the preparation and implementation of their sub-catchment management plans, (ii) the development and implementation of nature-based solutions (NBS) for groundwater source protection and recharge infrastructure; and (iii) the conservation of natural recharge zones through gazettement Counties and WRA; and (b) Subcomponent 2B which will focus on: (i) the rehabilitation and expansion of groundwater-based rural water supply schemes according to a predetermined selection criteria; (ii) improvement of high-yielding boreholes designated as a drought-response strategic boreholes network (DSBN) by the County Governments and the NDMA, including both rehabilitation of existing boreholes and drilling new boreholes; and (iii) institutional support for mainstreaming sustainable operation and maintenance of the groundwater infrastructure developed and rehabilitated in the borderland NEDI counties.

21. In summary, the project plans to support the following interventions that have necessitated the development of the RPF.

- i. *Rehabilitation and upgrading of groundwater rural water supply schemes.* This activity will primarily finance civil works of about 250 boreholes. The rehabilitation scope of work will vary depending on the system but will typically include test pumping, borehole re-casing and development, retrofitting existing diesel pumping sets with solar PV pumping systems, improving water storage, expanding water distribution networks, adding more public standpipes (water kiosks), and livestock watering troughs. A detailed set of criteria for prioritizing borehole rehabilitation and expansion will be developed during the inventory but may generally include water schemes that serve a greater number of people, institutions (such as schools and health centers) and livestock, as well as boreholes with high yield.
- ii. Development and management of aquifer recharge and other groundwater conservation infrastructure, i.e., the establishment of WRUAs, gazettement of aquifer recharge zones and completion of procurement packages for the recharge infrastructure.
- iii. The protection and conservation of natural recharge zones and the development, operations, and maintenance (O&M) of prioritized MAR infrastructures, including subsurface dams, sand dams, micro-dams and/or infiltration ponds.

2.1 Description of PAPs

23. This RPF describes and considers PAPs to be those who stand to lose, because of the project, all or part of their physical and non-physical assets, including homes, communities, productive lands, resources such as forests, fishing areas or important cultural sites, commercial properties, tenancy, income-earning opportunities as well as their social and cultural networks and activities. Such impacts may be permanent or temporary. This might occur through land expropriation, using eminent domain or other regulatory measures, and could include restricted or reduced access to legally designated fishing areas and protected areas such as gazetted forests as well as grazing land. In the second consultation meeting participants indicated that most of the land in the project areas is community land and any acquisition should adhere to the Community Land Act, 2012. This was echoed in the third consultation meeting (see Minutes in Annex 12).

24. The RPF applies to all economically and/or physically displaced persons regardless of the total number of affected or the severity of impact, and whether or not PAPs have legal title to the land. Attention will be paid to the needs of disadvantaged and vulnerable individuals and groups among those economically and/or physically displaced especially the very poor, the elderly, female and child headed households, including marginalized groups, or other economically and/or physically displaced persons who may not be protected through Kenya's land legislation. The second consultation meeting participants emphasized the need to include marginalized group's needs in planning resettlement assistance especially the elderly (see Minutes in Annex 11).

2.2 Categories of PAPs

25. PAPs are individuals whose assets may be lost and/or affected, including land, property, other assets, livelihoods, and/or access to natural and/or economic resources because of activities related to a given investment in the project area.

- i. Project affected households are groups of PAPs in a household, where one or more of its members are directly affected by an investment the project. These include the head of household, male and female members, dependent under relatives and members, tenants, etc.
- ii. Vulnerable groups who could be members of affected households. These include those who are too old or too ill; children; women; unemployed youth, and orphans; households headed by women that depend on sons, brothers, and others and are especially vulnerable. The vulnerable groups are eligible for additional assistance under this RPF.
- iii. Affected local community: a community is affected if project activities affect its socio-economic and/or social-cultural relationships or cohesion. For example, project activities could lead to loss of welfare, cultural erosion and conflict. In addition, the investments can cause breakdown of communities and social networks due to physical separation if not mitigated. Any issues on community land will be dealt with in accordance with the Community Land Act of 2016.

26. **Approximate number of PAPs:** the determination of the number of PAPs is not possible at this time because the exact locations, nature, scope and magnitude of the project have not been determined and no census has been carried out. The purpose of this RPF is therefore to establish the mechanisms, procedures and principles for compensation and livelihood restoration for potentially affected people and guide the preparation of the RAPs for individual investments. The number of PAPs, including the determination of physical or economic displacement, will only be established through the census which will be undertaken as part of the preparation of the project specific RAP.

2.3 Actual/physical displacement

27. Actual or physical displacement is likely to occur if the PAP loses a percentage of land that would make his/her land economically unviable through need for construction of a borehole. The project team will, however, endeavour not to displace people unless it is unavoidable.

CHAPTER 3. POLICY, LEGAL AND INSTITUTIONAL FRAMEWORKS

3.1 Overview

28. The chapter sets out the legal operating environment for acquisition of land as anticipated in the implementation of HOAGW4R. It seeks to highlight major issues related to Kenya's land legislation with regards to compulsory land acquisition and involuntary resettlement. It provides a brief overview of Kenya's Land Policy, the CoK, 2010 and related provisions connected with land use, planning, acquisition, management, and tenure, and more specifically the legislation related with land expropriation or acquisition, land valuation and land replacement as illustrated in Table 3. The Chapter further compares the Kenyan legislation with the World Bank provisions on resettlement, with gaps highlighted and recommendations drawn to fill gaps.

3.2 Legislative framework

29. Legal framework is a set of laws formulated to guide certain actions, procedures, and transactions. The focus of the analysis presented in Table 2 is on how the acts enable or affect access to land.

Table 2: Relevant legislative framework

Laws	Provisions	Relevance
Land Act, 2012 (Revised Edition 2019)	Provides for the sustainable administration and management of land and land-based resources, and for connected purposes.	Guides the land acquisition and documentation of the various land categories.
Land Registration Act, 2012	Gives effect to the principles and objects of devolved government in land registration, and for connected purposes.	Applicable in project acquisition of public, private and community land.
National Land Commission Act 2012 (Revised 2016)	Gives effect to the objects and principles of devolved government in land management and administration, and for connected purposes.	Guides its operations in relations to land management and administration.
Community Land Act 2016	Provides for the recognition, protection, and registration of community land rights; management and administration of community land.	HOAGW4R project will reference this Act in the acquisition of community land
EMCA Act, 1999 (Amended 2015)	Provides for the establishment of an appropriate legal and institutional framework for the management of the environment and social impacts and for the matters connected therewith and incidental thereto.	Applicable to all aspects of project intervention.
Water Act (2002)	An Act of Parliament to provide for the management, conservation, use and control of water resources and for the acquisition and regulation of rights to use water.	This is critical to project implementation since it guides access of water resources.
Registration of Documents Act CAP 285 (revised in 2020)	Provides for the registration of all documents conferring, or purporting to confer, declare, limit, or extinguish any right, title, or interest, whether vested or contingent to, in or over immovable.	Useful acquiring for the project registered and non-registered land.
Physical and Land Use Planning Act, 2019	Provides for the planning, use, regulation, and development of land and for connected purposes.	Guides development of buildings and other infrastructure on land under the various jurisdictions.
County Governments Act, 2012 (Amended 2020)	Provides for county governments' powers, functions, and responsibilities to deliver services and to protect and develop natural resources in a manner that aligns to national policies.	Guides the process for the initiation of development Projects at the county, including public participation.
The Law of Contract 2012 CAP 23	Provides for formal transfer of short-term land rights.	Applicable in the signing of agreements and MOUs in relation to land documentation.

National Museums and Heritage Act Cap 216 Revised Edition 2012 (2006)	Provides that a monument or objects of archaeological, paleontological, or cultural interest discovered in a part of Kenya shall be the property of the Government.	The Act will guide handling of any chance finds of artefacts or other archeological items in the project footprint.
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3.3 Regulatory Framework

30. Regulatory frameworks are the rules and procedures to operationalize the laws. The key frameworks, of relevance to this project, are summarized in Table 3.

Table 3: Relevant regulatory framework

Laws	Provisions	Relevance
Land regulation (2017)	These Regulations implement provisions of the Land Act, 2012, with respect to a variety of matters including administration of public land and private land, conversion of freehold or leasehold tenure, compulsory acquisition, settlement programs, easements and analogous rights, and evictions from unlawfully occupied public land	Ensures clarity in administration, conversion of land that are likely to affect HOAGW4R
Land Registration General regulation (2017)	These Regulations of the Cabinet Secretary implement provisions of the Land Registration Act in respect of the organization and administration of land registries, the procedures for the registration of land, and related matters. The land register referred to under section 7 of the Act shall contain (a) the property section; (b) the proprietorship section; and (c) the encumbrance section. The Regulations set out the content of each section and of the proprietorship section of a register that pertains community land.	Provides procedures for registration of land acquired by the project as per the Land Act (2012).
The physical and Land Use planning (Local Physical and Land Use Development Plan), Regulations 2020(Draft)	These regulations apply to all local physical and land use development plans. It states that all sections, notices, or any other matter provided in the act shall be executed within the stipulated period, subject to any period of extension permissible under the act or any written law. It gives guidelines on the preparation of the local physical and land use development plan, the approval process and amendment of revision procedure.	Facilitates coordination of planning for land use for different projects
Community Land Regulation 2017	These Regulations of the Cabinet Secretary for Land and Physical Planning implement provisions of the Community Land Act, 2016 ("Act") with respect to, among other things, recognition, protection and registration of community land rights, community land management committees, registration of communities, conversion of community land, settlement of disputes relating to community land, conversion of group representatives, a national program for public education and awareness on provisions of the Act and the rights of communities over community land within twelve months of the commencement of these Regulations	Operationalizes recognition, protection, and registration of community land by setting procedures and standards
Water Service (Regulatory) Rule 2012	Enables operations regarding the provision of water services by water service boards and other operators or their agents. Each water service board shall apply to the Regulatory Board for the issuance of a license. The Board may issue a provisional license or a full license. For a full license, the water service board must be in possession of water permits from identified sources from the Water Resources Management Authority and sewage discharge permits from the National Environment Management Authority	Sets guideline and standards implementation of Water Act, 2012
Water Harvesting and Storage Regulation (2021)	These Regulations applies to (a) the policies, plans, programs and activities of the national government, county governments and entities of the national and county governments; and public and private waterworks for water harvesting and storage, reservoirs for impounding surface run-off and for regulating stream flows to synchronize them with water demand patterns and structures and devices for flood control and management. Part 1 gives the classification of storage dams and other waterworks, Part 3 outlines the development of waterworks, Part IV outlines release of water from storage dams and other	Provides procedures and standards for implementation of provisions Water Harvesting and Storage Regulation Act (2021)

Laws	Provisions	Relevance
	waterworks: Part V outlines maintenance and management of water works. Part VIII outlines water harvesting while Part X gives the general provisions.	
Water Resources Management Rules, 2007	<p>The rules set the procedure for obtaining water use permits and the conditions placed on permit holders. Sections 54 to 69 of the Water Resources Management Rules 2007 impose certain statutory requirements on dam owners and users in regard. Section 16 of the Water Rules requires approval from the WRMA for a variety of activities that affect the water resources, including the storage of water in dams and pans. Approval by WRMA is conferred through a Water Permit. A permit is valid for five years and must be renewed.</p> <p>Section 104 of the Water Resource Management Rules requires certain water permit holders to pay water use charges. The intention of the water use charges was to raise revenue for water resource management, raise revenue for catchment conservation activities, improve efficiency of water resource abstraction and provide a system of data collection on water resource usage.</p>	Sets the standards and procedures to be followed in the utilization of water resources including abstraction controls, mode of use and responsibility in the protection of the resource including effluent discharge

3.4 Relevant Policies

31. A policy is a statement to guide decisions and actions for achievement of a defined objective. Several policies have been assessment to be relevant to the proposed project, as shown in Table 4.

Table 4: Relevant policy framework

Policies	Provision	Relevance
Constitution of Kenya (2010)	<p>All land in Kenya belongs to the people of Kenya collectively as a nation, as communities and as individuals (Article 61).</p> <p>Land in Kenya shall be held, used, and managed in a manner that is equitable, efficient, productive, and sustainable (Article 60).</p>	Provides guidelines on legal allocation and use of land.
National Land Policy of (2009)	Guides the country towards efficient, sustainable, and equitable use of land for prosperity and posterity.	Regulates to how private land is used to protect the public interest.
Vision 2030 and MTP II (The Big 4 Agenda)	<p>To transform Kenya into a newly industrializing, middle-income country providing a high quality of life to all its citizens by 2030.</p> <p>Ensuring food security, affordable housing, manufacturing, and affordable Universal healthcare (Big 4 Agenda).</p>	Land is an enabler to achieve the objective of vision 2030.
The National Land Use Policy (2017)	Provides legal, administrative, institutional, and technological framework for optimal utilization and productivity of land related resources in a sustainable and desirable manner.	Guides the process of registration of land rights.
National Environment Policy (2014)	Provides the framework for an integrated approach to planning and sustainable management of natural resources in the country.	Provides for sustainable land management
National Livestock Policy (2020)	Improved management of livestock for increased production through improved management of livestock, feed and rangeland resources while promoting social inclusion and environmental resilience	The HOAGW4R will address access to water for livestock and this Policy will come in handy
National Agriculture Investment Plan (2019-2024)	Promote commercial and modern agricultural sector that sustainably support economic development in the context of devolution	Coordinated implementation of agriculture investments such as KCSAP
Forest Policy (2014)	Provides a framework for improved forest governance, resource allocation, partnerships and collaboration with the state and non-state actors to enable the sector to contribute in	Some of the project activities may use forest resources for laying water infrastructure

Policies	Provision	Relevance
	meeting the country's growth and poverty alleviation goals within a sustainable environment.	(Weirs, reservoirs), thus requiring collaboration
Wildlife Policy (2020)	Provides a framework to perpetuity conserve Kenya's wildlife resources, as a national heritage; increase access, incentives, and sustainable use of wildlife resources, while ensuring equitable sharing of benefits.	Facilitates collaboration for effective management human-wildlife conflicts in project sites
Water Policy (1999)	Provides for comprehensive management of the problems of water and sanitation, adopts an integrated approach to water resources management.	This is a key reference document for the proposed project whose focus will be on ground water
Arid and Semi-Arid Land Policy 2012	Provides for delicate balance between the quest for rapid development and the need to maintain and support the unique livelihoods system that best utilizes the variable ecological conditions of the region.	This is a key document for the project since its focus is on the ASALs

3.5 The World Bank Environmental and Social Framework and Standards

32. The World Bank Environmental and Social Policy for Investment Project Financing sets out the requirements that the Bank must follow regarding projects it supports through Investment Project Financing. The Bank's ESF has ten (10) ESS that set out the requirements for Borrowers relating to the identification and assessment of E&S risks and impacts associated with projects supported by the Bank through Investment Project Financing (IPF). The Bank believes that the application of these standards, will support Borrowers in their goal to reduce poverty and increase prosperity in a sustainable manner for the benefit of the environment and their citizens. Applicable ESS for the HOAGW4R project are 8 out of 10. The ESS5 is applicable to matters of land acquisition, restriction on land use and involuntary resettlement.

33. The overall objectives of the World Bank's ESS5, as provided by the ESF are:

- i. To avoid involuntary resettlement or, when unavoidable, minimize involuntary resettlement;
- ii. To avoid forced eviction;
- iii. To mitigate unavoidable adverse social and economic impacts from land acquisition or restrictions on land use by: (a) providing timely compensation for loss of assets at replacement cost and (b) assisting displaced persons in their efforts to improve, or at least restore their livelihoods and living standards, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher;
- iv. To improve living conditions of poor or vulnerable persons who are physically displaced through provision of adequate housing, access to services and facilities and security of tenure;
- v. To conceive and execute resettlement activities as sustainable development programs providing sufficient investment resources to enable displaced persons to benefit directly from the project, as the nature of the project may warrant; and
- vi. To ensure resettlement activities are planned and implemented with appropriate disclosure of information, meaningful consultation, and informed participation of those affected.

3.6 Gaps between Kenyan laws and policies, and World Bank ESF/ESSs

34. This section compares the different laws and policies guiding land in Kenya, with the World Bank's ESS5: Land Acquisition, Restrictions on Land Use, and Involuntary Resettlement. Specifically addressed are consultation requirements, eligibility for compensation, valuation method, grievance mechanisms, disclosure of information and the timing of compensation payments (See Table 5). For the HOAGW4R project, the Bank's ESS5 will take precedence over any of these other laws.

Table 5: Comparison between Kenya Law and World Bank ESS5

Area of concern	Kenya Law	World Bank Requirements	Gaps	Gap filling measures
Land ownership	Kenya recognizes three forms of land ownership: public; private; and community land.	Identified three types of PAPs and this is compatible with the provisional constitution.	The same as World Bank requirements	The Kenyan law will be applied
Involuntary resettlement	According to Kenyan Legislation, involuntary resettlement may occur because of projects implemented in public interest. The Land Act, 2012 Act outlines procedures for sensitizing the affected population to the project and for consultation on implications and grievance procedures.	To avoid involuntary resettlement or, when unavoidable, minimize involuntary resettlement	The Law does not stipulate that resettlement should be avoided wherever possible; on the contrary, if a project is for public interest, involuntary resettlement is considered to be inevitable. Just and fair compensation as outlined in the Land Act 2012 is not clear and can only be determined by NLC, which can be subjective. It does not talk about improving livelihood or restoring them to pre-project status.	For each of the subprojects, ensure that resettlement issues are considered at the design stage of the project to avoid/ minimize resettlement for this component is use of the road reserve to the extent possible during selection of the routes Implement World ESS5 policy - the displaced should be assisted in improving their livelihood to pre-project status.
Compensation Eligibility	The Land Act 2012 guarantees the right to fair and just compensation in case of relocation. The Land Act 2012 provides that written and unwritten official or customary land right are recognized as valid land right. The Law provides that people eligible for compensation are those holding land tenure rights Land Act also recognizes those who have interest or some claim in the land such	World Bank recognizes three classes of PAPs eligible for compensation: 1. Those with formal legal rights to land (including customary and traditional rights recognized under the laws of the country) 2. Those who do not have formal legal rights to land at the time of census,	The CoK on the other hand recognizes 'occupants of land' who do not have title and who the state has an obligation to pay in good faith when compulsory acquisition is made but this is sometimes not fully implemented	Ensure ALL users (including squatters, laborers, rights of access) of affected lands are included in the census survey and are paid for loss of assets other than land. Where resettlement will require new land, the impact will be handled during screening and

Area of concern	Kenya Law	World Bank Requirements	Gaps	Gap filling measures
	<p>pastoralist or who use the land for their livelihood. The constitution recognizes ‘occupants of land even if they do not have titles and payment made in good faith to those occupants of land. However, this does not include those who illegally acquired land</p>	<p>but have a claim that is recognized under the laws of the country</p> <p>3. Those who have no recognizable legal right or claim to the land they are occupying (e.g. squatters, encroachers).</p> <p>Types of losses to be compensated include physical and economic displacement and cover land, residential or commercial structures, and lost income caused by temporary or permanent economic displacement</p>		<p>preparation of RAP if need be</p>
Valuation Method	<p>Valuation is covered by the Land Act 2012 and stipulates, as already mentioned, that the affected person receive fair and just compensation from NLC, as determined by National Land Commission. Valuers Act stipulates that a residual amount of 0.5% of the total valuation of an asset is expected to pay the valuer.</p> <p>The Land Act 2012 stipulates just and fair compensation.</p>	<p>Bank requires full replacement cost for all lost assets</p>	<p>Land Act 2012 provides for fair and just compensation for the lost assets, but it is not specific of the exact amount or procedures on the same.</p>	<p>Apply the World Bank measures on valuation and compensation</p>
Consultation	<p>The Land Act 2012 outlines procedures for consultation with affected population by the NLC and grievance management procedures.</p>	<p>Project affected persons (PAPs) facing physical or economic displacement persons must be meaningfully consulted to express their concerns and discuss ways to minimize impacts on affected communities.</p> <p>PAPs also should have opportunities to participate in planning and implementing resettlement programs.</p>	<p>The Land Act complies with the World Bank requirements</p>	<p>Implement consultation procedures as outlined in both Kenyan legislation and World Bank</p>

Area of concern	Kenya Law	World Bank Requirements	Gaps	Gap filling measures
Grievance Mechanism	Land Act 2012 clearly outlines the steps and process for grievance redress that include alternative dispute resolution, re-negotiation with NLC and is backed by the judicial system through Environmental and Land Court.	World Bank policy calls for project-level grievance redress mechanism to cover resettlement and related compensation matters, construction phase grievances and operations phase grievances.		World Bank ESS5 and RAP guidelines to be followed
Information Disclosure	County Government Act, 2012 spells out the principles of citizen participation at Section 87 of the Act, including timely access to information, data, documents, and other information relevant or related to policy formulation and implementation, and protection and promotion of the interest and rights of minorities, marginalized groups and communities and their access to relevant information.	World Bank requires disclosure by Bank at external website and simultaneous public disclosure in-country disclosure by clients' line ministries websites or other readily accessible public disclosure means available in their jurisdiction. Information disclosed in language(s) understood by the PAPs and other stakeholders.	Kenyan Law is not specific on language of disclosure.	World Bank ESS5 and RAP guidelines to be followed.
Compensation Payment Schedule and Cut-off date	Land Act 2012 provides for census through NLC inspection and valuation process Land Act talks of prompt, just and full compensation before the acquisition of land. However, interpretation of just compensation is yet to be clearly outlined through a specific schedule defining just and fair compensation has not been put in place. Attorney's fees, cost of obtaining advice or cost incurred in preparing and making written claim not included in just compensation	Cutoff date to be established at time of census and asset survey. Additional measures will be taken to ensure that vulnerable groups such as minority groups and nomadic pastoralist groups (e.g., through local leaders) to ensure adequate dissemination and inclusion. Compensation to be agreed upon with PAPs and provided prior to taking over of assets or relocation.		Implement cut-off procedures as outlined in the RPF and Kenyan Law

As is noted throughout matrix above, in case of conflict between these two sets of laws/policy (Kenya and World Bank), World Bank ESF: ESS5 would prevail under this project.

CHAPTER 4: PRINCIPLES OF LAND TENURE, USE AND CATEGORIES IN KENYA

4.1 Land Policy

35. Kenya land use is largely pastoral in the semi-humid and semi-arid zones, and agricultural in moist and humid zones. Because incidences of crop failure in the ASALs are high, the predominant land-use systems are ranching, wildlife conservation and pastoralism although some perennial crops are cultivated. Land productivity is determined by factors such as climate, hydrology, terrain, and the inhabitants' culture. Agro-ecological factors also determine the suitability of an area for a particular land use, and these ultimately inform the zoning processes.

36. The CoK provides that land in Kenya shall be held, used, and managed in a manner that is equitable, efficient, productive, and sustainable, and in accordance with land use principles.

37. Further, Article 60(1) states that land shall be held and managed in accordance with the following principles:

- i. Equitable access of land; security of land rights; sustainable and productive management of land resources;
- ii. Transparent and cost-effective administration of land;
- iii. Sound conservation and protection of ecologically sensitive areas;
- iv. Elimination of gender discrimination in law, customs and practices related to land and properties in land; and
- v. Encouragement of communities to settle land disputes through recognized local community initiatives consistent with the Constitution.

4.2 Categories of Land in Kenya

4.2.1 Public Land

38. This is all land that is not private land or community land and any other land that has been declared by an act of parliament. It is land vested in the government (either national or County governments) for the benefit of the people of Kenya. For example, roads, all water bodies, forests, national parks, and land that has minerals, among others.

39. Section 62 (1) of the CoK further lists public land as:

- (a) land which at the effective date was un-alienated government land as defined by an Act of Parliament in force at the effective date;
- (b) land lawfully held, used, or occupied by any State organ, except any such land that is occupied by the State organ as lessee under a private lease;
- (c) land transferred to the State by way of sale, reversion, or surrender;
- (d) land in respect of which no individual or community ownership can be established by any legal process;
- (e) land in respect of which no heir can be identified by any legal process;
- (f) all minerals and mineral oils as defined by law;
- (g) government forests other than forests to which Article 63 (2) (d) (i) applies, government game reserves, water catchment areas, national parks, government animal sanctuaries, and specially protected areas;
- (h) all roads and thoroughfares provided for by an Act of Parliament;
- (i) all rivers, lakes and other water bodies as defined by an Act of Parliament;
- (j) the territorial sea, the exclusive economic zone and the seabed;
- (k) the continental shelf;
- (l) all land between the high and low water marks;
- (m) any land not classified as private or community land under this Constitution; and
- (n) any other land declared to be public land by an Act of Parliament.

4.2.2 Community Land

40. This is all land used traditionally or historically for communal purposes and land used as Community settlement areas. It is identified based on ethnicity, culture, and similar community of interest. It also includes land lawfully held, managed, or used by specific communities as community forests, grazing areas, shrines, ancestral lands, and lands traditionally occupied by hunter gatherer communities or land lawfully held as trust land by the County governments.
41. Section 63 (2), of the CoK defines Community land as:
- (a) land lawfully registered in the name of group representatives under the provisions of any law.
 - (b) land lawfully transferred to a specific community by any process of law.
 - (c) any other land declared to be community land by an Act of Parliament; and
 - (d) land that is:
 - (i) lawfully held, managed, or used by specific communities as community forests, grazing areas or shrines.
 - (ii) ancestral lands and lands traditionally occupied by hunter-gatherer communities; or
 - (iii) lawfully held as trust land by the county governments,but not including any public land held in trust by the county government under Article 62 (2).
42. Community land can be categorized as registered or/and unregistered.:
- i. Registered community land is land to which a particular community has a certificate of title and therefore private to that community and the process of land acquisition is similar to acquisition of private land; and
 - ii. Unregistered community land is land that is not officially assigned to a particular community but ordinarily the claimant community is known.

4.2.3 Landholdings in community land

43. The principal title under community land is vested in communities at registration (CON Art. 63 (1), CLA, s. 4). The title may be held as a customary, freehold, leasehold, or other legal entitlement. Certificate of Title issued by the Registrar will serve as prima facie evidence of the community as the absolute and indefeasible owner, except where the title has been obtained fraudulently (CLA s. 18).
44. The procedures for securing freehold, customary or leasehold title are the same: first, registration of the applicant community, and then application by it for formal survey and adjudication of its land, the results to be registered as a collective title in a Community Land Register set up for this purpose in each county.
45. The Community Land Act (CLA) makes provision for individuals, families, and other customary groups or new groups formed by community members, such as a cooperative or associations, to be acknowledged as the owners of rights to parts of the community's domain (CLA s. 14).
46. The law also places obligations to the registered Communities in the pastoral areas to ensure:
- i. they avail land to their members for the purpose of grazing;
 - ii. reserve special areas for farming areas, settlement areas, community conservation areas, access and rights of way, cultural and religious sites, urban development, or any other purpose as may be determined by the community, county government or national government for the promotion of public interest; and
 - iii. ensure every member of the community has the right to equal benefit from community land, full and equal enjoyment of right of use and access with no discrimination based on gender, minority, and disability or marginalized groups.

4.2.4 Private land

47. This is land which is under absolute ownership. Article 64 of the Constitution defines private land in Kenya to consist of:

- i. Registered land held by any person under any freehold tenure;
- ii. Land held by any person under leasehold tenure; and
- iii. Any other land declared private land under an Act of Parliament.

48. Private owners ought to hold land ownership documentation as proof of ownership. Despite the absolute ownership, the regulations are key. A Land Use Plan should have been complied with first for any private owner to do development.

4.3 Land Tenure and Land use

49. Land tenure is the act, right or period of holding land. There are two types of land tenure system in Kenya – freehold and leasehold.

a) Freehold: It is the greatest interest a person can have on land as it gives the holder absolute ownership of the land for life. This means descendants can succeed the owner for as long as the family lineage exists. A freehold title deed generally has no restrictions as to the use or occupation. However, there are conditional freeholds, which restrict the use of the land, for instance, for agricultural purposes or ranching only. A freehold interest is also known as free sample or absolute proprietorship.

b) Leasehold: This is the interest in land for a specific period subject to payment of a fee or rent to the grantor. Payment of rates is made to the respective county governments for services rendered. Leases are granted by the Government for public land, local authority for trust land and individuals with freeholds. The maximum term of government leases is 99 years.

50. A leaseholder can also apply for a renewal or extension of the lease more particularly if he or she wants to re-develop the property and the lease period is about to expire or the remaining period is not enough to recoup the investments.

51. Land use planning must be guided by the existing regulations and laws and when engaging the people should be able to identify their needs with an expert's opinion having carried ESIA.

52. Based on the outputs of the aquifer assessments conducted in component one, the WRA, in consultation with county governments and the NLC, will demarcate certain land areas to be classified as protected aquifer recharge zones via a Gazette Notice. Protected recharge zones that have been gazetted will also be included in the CIDPs. The goal of establishing protected recharge zones is to safeguard the areas against risks such as physical deterioration, including loss of exposed surface area, change in land-use patterns, and pollution caused by chemical and other pollutants. In conjunction with affected stakeholders, including communities, the WRA will develop a set of criteria for designating a land area as a protected aquifer recharge zone. For areas that have been formally gazetted, the WRA will work with the WRUAs to enforce and monitor the implementation of appropriate measures, such as regulations on groundwater extraction and use, rules on afforestation and deforestation, prohibition of waste disposal, and regulation of land use practices near recharge zones, among others.

53. Under the Water Act 2016 , section 23, WRA has the following mandate:

- (i) Where the Authority is satisfied that in any area, special measures for conservation of groundwater are necessary in the public interest for:
 - The protection of public water or water supplies used for industry, agriculture or private purposes
 - the conservation of the water resources of the aquifer/groundwater resources or
 - ecological reasons, it may by order published in the gazette, declare the area to be a groundwater conservation area

- (ii) The Authority may impose such requirements or prohibit such conduct in relation to a GCA as it may consider necessary for the conservation of the groundwater;
- (iii) The CS may make regulations for the better carrying into effect of this section.

54. The seventh schedule of the WRM Regulation 2007 outlines the process to be followed including the development of management guidelines through a consultative process. This will require WRA to work with the other key stakeholders in ensuring these provisions are implemented.

4.4 Regulations and laws

55. Land use in Kenya should be implemented within the following context and plans anchored in the County Government Act (2012) and existing land use regulations, i.e., National Land Use Guidelines, Community Land Use Plans, County Integrated Development Plan (CIDP). Land rights, Land ownership, Land Use Planning (Zonation), Spatial Plans. Other documents include ESIA's, Community land use plans, and Community land use practices.

4.5 Land Use Planning, Patterns and Practices in ASALs

56. Land Use Planning forms the basis for:

- Siting investments;
- Infrastructure and service provision;
- Securing food production areas;
- Regulation of land use (development control);
- Land administration;
- Valuation;
- Resolution of land disputes; and
- Environment and natural resource conservation/protection.

CHAPTER 5. ACCESSING COMMUNITY LAND FOR PROJECT ACTIVITIES

5.1 Background

57. The Community Land Act (2016) defines community as “consciously distinct and organized users of community land who are citizens attributed to; common ancestry, culture, or unique mode of livelihood, socio-economic or other common interests, geographical or ecological space and ethnicity.” Communities in dry lands can be grouped into nomadic, semi-nomadic, transhumant, and sedentary smallholder agricultural populations. Nomadic people are found in pastoral groups that depend on livestock for subsistence and, where possible, farming as a supplement. Following the irregular distribution of rainfall, they migrate in search of pasture and water for their animals. Semi-nomadic people are also found in pastoral groups that depend largely on livestock and practice agricultural cultivation at a base camp, where they return for varying periods. Transhumant populations combine farming and livestock production during favorable seasons, but seasonally they might migrate along regular routes using vegetation growth patterns of altitudinal changes when forage for grazing diminishes in the farming area.

58. The Community Land Regulation (2018) operationalizes the Community Land Act 2016. It provides for recognition and protection of community land rights, registration, administration, and management of community land through Community Land Management Committees (CLMC) and the Community Assembly. It guides on the registration of community members, and various processes which include conversion of community land and the settlement of disputes. The Regulations also provide for the special interest rights and entitlements in community land, and environment and natural resources management on community land. Mechanisms for dispute resolution are clearly spelt out as well. In summary, for effective use, the CLMC shall facilitate development of a benefit-sharing plan approved by two-thirds of the community assembly to ensure sustainable use and equitable distribution of benefits including the minority groups, women, and persons with disability.

59. It is notable that some of the five counties involved in the proposed project have already registered and/or are in the process of registering community lands. The project team will be required, with the participation of the County Government and the Implementing Agencies (IAs), to utilize some of the strategies listed below to acquire the land for the proposed investments. For those investments to be done on public and private land, the laid down procedures as provided for the National Land Act (2012) will be followed.

5.2 Registered Community Land

60. Registered Community land is established under Section 12 of CLA 2016. There are clear guidelines on the definition of a community, and the operationalization of CLA. The Act establishes two important structures, namely the Community Assembly and CLMC. The Community register comprises of all living members of the community. The Committee comprises of 7-15 members serving for a term of 3 years with a third eligible for re-election. They comprise the executive members who are the Chairman, Vice Chairman, the Treasurer and the Secretary and membership is drawn from different community interest groups and geographical considerations. They are mandated with governing the Community land and carrying out the day-to-day operations.

61. The Community Assembly comprises of all adult members of the Community registered as members and they decide on the major affairs as stipulated in the Act and regulation. The quorum for the assembly is 2/3 of the total members of the assembly.

5.3 Unregistered Community Land

62. The unregistered Community Land represents land which is held under customary tenure system. This land presents characteristics such as land with no public records about legal ownership, boundaries, or transaction. In addition, it is land customarily owned under certain cultural beliefs and it's held in trust

by the County Government. Table 6 gives a synopsis of decision-making structures commonly used in decisions on community land.

Table 6: Decision-making structures on community land

Land Category	Actor	Roles
Registered Community Land	National Land Commission	Land set apart for public purpose shall be gazetted by NLC as public land. The NLC will identify and register this land.
	County governments (physical planners)-	-The county government to approve plans for development, management and use of community land. -Give consent where applicable
	Community Land Registrar	To register interests in community land and maintain the register
	Community Assembly	-It is a gathering of registered adult members of a community responsible for approving key resolutions including conversions, partnerships, and investment agreements. Consists between 7-15 members including the youths who will serve for a term of three years and only a 1/3 are eligible for re-election. Must meet 2/3 of the registered members for decision making.
	Community Land Management Committee	-Manage and administer registered community land on behalf of the community and coordinate development of land use plans in coordination with relevant authorities.
Unregistered Community Land	County government structures	-The county government will hold unregistered community land in trust on behalf of the community -Guide in land use planning -Assist in implementation of the project -Forward inventory of CL to the CS -Hold unregistered community land in trust
	The community elders (Council of elders), women groups, youth groups, religious leaders (faith-based organizations)	-They act as community gate keepers -Approve and identify project sites and beneficiaries -Members of Project Management Committees -Reserve land for public use
	Chief, National Government Administration Officers (NGAO)	-Provide security-maintenance of law and order -Coordinate mobilization of communities -Guide communities on existing government projects and relevant regulations
	Politicians	Political goodwill
	The local NGOs and FBOs Existing Management Committees (i.e., WRUAs, etc.)	-Community gatekeepers -Members of PCU -Mobilization of all categories of communities -Identification of beneficiaries

5.4 Factors to consider when seeking access to community land for investment

- a) Any land previously used for public purpose shall on commencement of the Act be deemed to be public land vested in national or county governments based on the use it was put for Section 8 (6)
- b) The negotiations and consultations leading to investment agreements or MoUs should be conducted in full transparency and with full disclosure including participation of the local communities whose access to land and other productive resources may be affected.
- c) The project will be required to make any ex-ante or ex-post applications to other relevant authorities where necessary.
- d) Aside from the general requirements of impact assessment under EMCA, projects dealing with community land must take cognizance of the following:
 - o The proposed project should not block access of critical resources such as salt licks, riparian areas, lakefronts, beach fronts, rivers, special landscapes;

- The proposed project should not block access to refuge zones that are critical to local and other communities during natural disasters such as floods or drought;
 - The proposed project should not interfere with cultural heritage sites and religious grounds or places of archaeological value;
 - The proposal must prove that land will be held and managed efficiently;
 - The proposed investment must not negate the principle of equitable access to land as stipulated in the CoK; and
 - The proposed investment must not interfere with the conservation and protection of ecologically sensitive areas for example wetlands lakes.
- e) It is also important to recognize other use rights on land such as grazing and gathering wood, which are often critical sources of livelihood especially for women.
 - f) Principle of Free, Prior and Informed Consent (FPIC): the principle of free, prior and informed consent (FPIC) provides that 'government shall consult and cooperate in good faith with the indigenous communities.
 - g) Communities may consult County Government and any other authorities when drawing terms for investment.
 - h) Community shall develop clear by-laws for administration of land on registered community land and the CLMC may develop bylaws for the project interventions in the case of unregistered community land in consultations with the communities.
 - i) The State has power to regulate use of CL pursuant to Art. 66.
 - j) The Registrar shall determine validity of any instrument executed before the Act that is presented for registration in CL register – Sec. 46(3).
 - k) No separate title shall be issued in case of allocation and the entitlement shall not be superior to the community title.

5.5 Community Land Access and Partnership for Community Investment

63. Access to Community Land remains a complex issue that needs deeper interrogation and understanding especially when projects such as HOAGW4R are to be implemented in it. There is need to have a guide for CL by the project to maximize the benefits and enhance sustainability by engaging communities. It is important to recognize that:

- i. Community lands are regulated by communities, using their own rules, defined as customary or community land. The CoK acknowledges customary laws only requiring these to be consistent with it;
- ii. Section 12 of the Community Land Act 2016, states that Community land maybe held as: communal land; family or clan land; reserve land; or in any other category of land recognized under the Act or other written law; and
- iii. The procedures for securing freehold, customary or leasehold title are the same. These include registration of the applicant community, and then the application by it for formal survey and adjudication of its land. The results to be registered as a collective title in a community land register, set up for this purpose in each county.

5.6 Access to Registered Community Land

- a) Principal title under Community Land is vested in Communities at registration.
- b) Certificate of title issued by the Registrar will serve as prima facie evidence of the community as the absolute and indefeasible owner, except where the title has been obtained frequently (CLA s18).
- c) CLA makes provision for individuals, families, and other customary groups or new groups formed by community members, such as a cooperative or association, to be acknowledged as the owners of rights to particular parts of the community's domain (CLA s. 14).
- d) The law also places obligations to the registered Communities in the pastoral areas to ensure:
 - they allocate land to their members for the purpose of grazing;
 - Reserve special areas for farming areas, settlement areas, community conservation areas, access and rights of way, cultural and religious sites, urban development, or any other

purpose as may be determined by the community, county government or national government for the promotion of public interest; and

- Ensure every member of the community has the right to equal benefit from community land, full and equal enjoyment of right of use and access with no discrimination based on gender, minority, and disability or marginalized groups.
- e) CLA makes specific provision on land requirements for investment, including that each request is subject to consultation and agreement with the community. A community may also determine terms of any lease and establish requirements for the investor to conserve and rehabilitate lands (CLA s. 37). The HOAGW4R project shall consult with all stakeholders extensively and partner with Communities benefiting from the project.
- f) The law gives provision for a negotiated settlement in community land. HOAGW4R will negotiate with communities within registered and unregistered community land for access to land, especially for community development projects.

5.7 Management of Registered Community Land

- a) The CLMC, headed by the chairman.
- b) Depending on the type of decisions to be made, access to the Community Assembly is done through the CLMC.
- c) The Community Land Registrar: keeps the records of the CLMC for any registered community, hence, information regarding community land can be gathered through the registrar who will give status on community members and community land.
- d) Background check on the targeted community, a scan, screening of the socio-economic status of the community through conducting social assessments, holding discussions with the community members using their structures, conducting focus group discussions to ensure that everyone is included in the consultation process.

5.8 Step by Step Process of Accessing Registered Community Land

- a. Background check (due diligence carried out on the ownership, access, and use) - the project will conduct a search at the county registry to determine its registration status and validity of the CL title.
- b. Structured consultations and sensitization with the CLMC and Community Assembly.
- c. Observe due diligence in terms of the approved survey, physical planning maps.
- d. Clear conditions for benefit sharing/community benefits when establishing partnerships for investment.
- e. The Community, through a resolution of the Community Assembly, approve and consent to the project to access land using a prescribed community Land resolution and agreement form developed by the project after negotiations. The Community will adopt the prescribed form and record in its Community Assembly meetings.
- f. Approval of investment agreements/Partnership/MoU by 2/3 of CA evidenced through minutes of the assembly.
- g. Approvals from other state agencies where applicable, e.g., NEMA, WRA, KFS, KWS; among others.
- h. Project Implementation.

5.9 Process for Land Access to Unregistered Community Land

- a. Background check (due diligence carried out on the ownership, access, and use).
- b. Structured consultations and sensitization with the National and County Governments and political leadership up to the local level.
- c. Structured consultations with the Community structures, e.g., community leaders, clan elders and other gatekeepers including CBOs and FBOs for buy-in.
- d. Clear conditions for benefit sharing/community benefits when establishing partnerships for investment.

- e. The Community will give consent vide a prescribed form for the investment (see annex 7 for a sample of this Template)
- f. Approval of investment agreements/Partnership/MoU must be done by most community members and recorded as minutes.
- g. The County Government will facilitate the partnership process and any required land use planning processes.
- h. Approvals from other state agencies where applicable, e.g., NEMA, WRA, KFS, KWS, among others.
- i. Project Implementation.

CHAPTER 6. PRINCIPLES AND ELEMENTS OF INVOLUNTARY RESETTLEMENT

6.1 Overview

64. This chapter provides general framework that will ensure any possible adverse impacts of involuntary resettlement are addressed through appropriate mitigation measures. ESS5 provides that these risks can be minimized by avoiding physical and economic displacement, minimizing the number of PAPs to the extent possible, compensating for losses incurred including displaced incomes and livelihoods; and ensuring resettlement assistance or rehabilitation, as needed, to address impacts on PAP livelihoods and their wellbeing.

65. Involuntary resettlement will have direct and indirect impacts on the project affected persons, and vulnerable and disadvantaged persons and groups. Some of the impacts are:

- Loss of private property including loss of land for agricultural, residential, commercial use;
- Loss of residential structures;
- Impact to trees, standing crops, other properties, perennial, and non-perennial crops;
- Losses of adjoining substructures to the residential houses such as fences, shed/tenants;
- Loss of shops, kiosks, repair shops and stalls;
- Loss of commercial structures;
- Loss of employment in non-agricultural activities or daily agricultural wages or other wage work;
- Loss of livelihood and livelihood opportunities; and
- Delays in compensation which may affect the individual and household wellbeing.

6.2 Application of ESS5

66. The ESS5 is applicable to permanent or temporary physical and economic displacement resulting from land acquisition or restrictions on land use undertaken or imposed in connection with the project n. The types of acquisition and restricted use are:

- i. Land rights or land use rights acquired or restricted through expropriation or other compulsory procedures in accordance with national law;
- ii. Land rights or land use rights acquired or restricted through negotiated settlements with property owners or those with legal rights to the land, if failure to reach settlement would have resulted in expropriation or other compulsory procedures;
- iii. Restrictions on land use and access to natural resources that may cause a community or groups within a community to lose access to resource usage where they have traditional or customary tenure, or recognizable usage rights. This may include situations where legally designated protected areas, forests, biodiversity areas or buffer zones are established in connection with the project;
- iv. Relocation of people without formal, traditional, or recognizable usage rights, who are occupying or utilizing land prior to a project- specific cut-off date;
- v. Displacement of people because of project impacts that render their land unusable or inaccessible;
- vi. Restriction on access to land or use of other resources including communal property and natural resources such as marine and aquatic resources, timber and non-timber forest products, fresh water, medicinal plants, hunting and gathering grounds and grazing and cropping areas;
- vii. Land rights or claims to land, or resources relinquished by individuals or communities without full payment of compensation; and
- viii. Land acquisition or land use restrictions occurring prior to the project, but which were undertaken or initiated in anticipation of, or in preparation for, the project.

67. The project may be confronted with past land issues around unsettled/multiple claims to land, and assets proposed for subproject level investments inside or outside the existing facilities occupied by private or public service providers. It is notable that most land in five project counties is community land, there are ongoing efforts to register these lands as alluded to earlier.

68. While project-related economic and physical displacement will be managed through ESS5, there are risks that the project might inadvertently be implemented in areas occupied by IDPs and other vulnerable groups. To avoid forced displacement risks, if forced displacement were conducted in the right of way of the project-financed infrastructure, relevant ESS5 requirements would need to be applied. If such requirements cannot be satisfied, the Bank will not support such infrastructure.

6.3 Eligibility Criteria for affected persons

69. The ESS5 classifies eligibility for those affected persons by involuntary resettlement into three categories, namely those:

- (a) Who have formal legal rights to land or assets;
- (b) Who do not have formal legal rights to land or assets, but have a claim to land or assets that is recognized or recognizable under national law; or
- (c) Who have no recognizable legal right or claim to the land or assets they occupy or use.

6.4 Determination of affected persons

70. Those affected by involuntary resettlement will be determined through the census which will be conducted in close consultation with the affected communities and households, and if necessary, by social, land and natural resource experts. The census will:

- i. identify the persons who will be affected by the project including information on demographics and socio-economic conditions. The census will provide information on age, sex, livelihoods options in the subproject area, and social characteristics including presence of vulnerable and disadvantaged individuals and groups, community-level institutions and formal institutions like NGOs that may need to be consulted. Vulnerable and disadvantaged individuals and groups include:
 - a. Female/child-headed households,
 - b. The very poor,
 - c. Non-farming residents,
 - d. The older people,
 - e. People with disability,
 - f. People with chronic illnesses,
 - g. Marginalized and vulnerable persons, and
 - h. Orphans and vulnerable children.
- ii. determine who will be eligible for compensation and assistance, and to discourage ineligible persons, such as opportunistic settlers, from claiming benefits;
- iii. address the claims of communities or groups who, for valid reasons, may not be present in the project area during the time of the census, such as seasonal resource users like nomadic pastoralists; and
- iv. establish an inventory of land and assets to be affected by resettlement. In addition, information on applicable land tenure and transfer systems will be collected.

6.5 Cut-off date

71. Using the census information, the government will establish a cut-off date for eligibility. Cut-off date is the date of commencement of the census within the project area boundaries. The cut-off date for this project shall be determined by the PIU in consultation with project stakeholders including relevant traditional authorities, as appropriate. The government will ensure that the information on cut-off date communicated and disseminated throughout the project area using written and electronic channels and mediums (radio, television, community meetings, etc.). Persons who move to the subproject area after cut-off date and likely to lose assets will not be eligible for compensation or resettlement assistance. The project will ensure that those who may not be present during census (e.g., nomadic pastoralists) but have valid reason for being away, are considered.

6.6 Compensation and entitlement

72. The government will ensure that subprojects are sited where there is no or minimal displacements. However, physical, and economic displacement will be compensated if it happens. Individuals, households, communities, as common land users, will be compensated in kind and/or in cash. The affected persons and communities will be consulted and facilitated to determine the preferred form of compensation. Compensation will be in the form of cash payments, in-kind compensation, and assistance such as a moving allowance, transportation, and labor. Compensation will be determined by taking all assets into account. This will include compensation for rural and urban assets, including land, crops, trees, buildings and structures, sacred sites, vegetable gardens and beehives, horticultural, floricultural and fruit trees, and other domestic cash crops and fruit trees. This will be determined according to the unit costs as provided in the national regulations, and until then, on unit costs according to current market prices. A detailed entitlement matrix relating to the type of impacts of land and assets acquisitions is provided on Table 7.

Table 7: Displacement impact and Compensation Entitlement

Asset	Type of Impact	Entitled Person or Group	Entitlement
Commercial Land	No Displacement: Land use partially affected, limited temporary loss	Owner	-Compensation in cash at full replacement value -Where land use is partially affected or with temporary losses, replacement value will be determined for 'loss of use of land' and for temporary losses
		Tenant	-Assistance with identification of new rental location if temporary or permanent move necessary -Rent and deposit refund along with relocation assistance
	Displacement: Premise use severely affected; and remaining land not fit for use nor viable	Owner	-Land for land replacement with land of equal size and market potential/ compensation in cash at full replacement value -Assistance in finding new location
		Tenant	-Cash compensation equivalent to net income based on estimates from comparable businesses -Assistance in finding new rental/lease location -Relocation assistance including rental assistance and moving costs to re-establish business -Livelihood restoration assistance if required
Residential Land	No Displacement: Land used for residence partially affected, and/or limited temporary loss, and the remaining land remains viable for use	Owner	-Compensation in cash at full replacement value for affected land -Where land use is partially affected or with temporary losses, replacement value will be determined for 'loss of use of land' and for temporary losses
		Tenant	-Assistance with finding new rental / lease location if temporary or permanent move necessary -Rent and deposit refund along with relocation assistance to cover moving costs
	Displacement: Premise used for residence severely impacted, remaining area insufficient for use or smaller than minimally accepted	Owner	-Land for land replacement with land of equivalent size and market potential or compensation for full replacement value in cash – according to PAP's choice
		Tenant	-Rent for affected months and deposit refund along with relocation assistance and moving costs -Assistance with finding new rental location

Asset	Type of Impact	Entitled Person or Group	Entitlement
Agricultural or pasture land	Full use	Persons whose agricultural or pasture land (or other productive land) is in part, or in total, affected (permanently or temporarily) by the Project	-pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes -The value of the labor invested in preparing agricultural land will be compensated at the average wage in the community for the same period.
	Seasonal use	Persons whose agricultural or pasture land (or other productive land) is in part, or in total, affected (permanently or temporarily) by the Project	-Pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes. -The value of the labour invested in preparing agricultural land will be compensated at the average wage in the community for the same period of time.
Trees – timber	Cut/uprooted (loss of timber)	All PAPs	-Cash compensation for full replacement value of the tree including for the one time sale of timber
Fruit trees	Cut/uprooted (loss of fruit)	All PAPs	-Cash compensation for full replacement market value of the produce of one tree for two years, assistance in establishing replacement trees. Present age and productive life the tree needs to be factored in
Standing Crops	Crops affected by land acquisition or temporary acquisition or easement	All PAPs	-When possible, PAPs will be given enough time to harvest existing crops to avoid economic loss to them. Where not feasible, cash compensation for crops at full market current value in the locality
Business	Loss of access	All PAPs	-Cash compensation to 50% of net monthly income based on estimates from comparable businesses for length of time access is lost. Or up to three months income (if loss is permanent) -Assistance to help find alternative temporary or permanent locations to establish business -Right to salvage material without deduction from compensation -Livelihood restoration assistance if required (assistance with job placement skills training)
Community Building	Temporary loss of access	All PAPs	-Cash compensation to cover public transportation cost to the nearest same facility in the town/city for the period of loss
		Owner/Community	-Structure replacement or cash compensation at full replacement costs for the entire structure and other fixed assets without depreciation, or alternative structure which is acceptable to the PAP -Right to salvage material without deduction from compensation -Relocation assistance to cover moving costs -Assistance with finding new location
	Displacement	Tenant	-Cash compensation at full replacement cost for any verifiable improvement of the property -Rent and deposit refund -Relocation assistance to cover moving costs -Assistance with finding new location

6.7 Resettlement Action Plan

73. After the ESIA is finalized and the need for land acquisition is ascertained, a RAP that is commensurate with the risks and impacts of the project will be developed. The plan will set out eligibility criteria, procedures and standards for compensation, stakeholder consultation methods, monitoring and evaluation (M&E) and how to address grievances. For a project with physical and economic displacement, additional measures on relocation, livelihood improvement or restoration and appropriate mitigation measures for restriction on land use will be developed. The plan will also assign roles and responsibilities of financing and implementation and include institutions to partner with and maintain professionals to support the project. Monitoring will happen throughout the resettlement process, and course correct where there are bottlenecks and affected persons will be continuously informed and their feedback utilized. Once the involuntary resettlement process is over, for all subprojects with significant involuntary resettlement impacts, the government will commission an external completion audit. The completion audit will be undertaken by competent resettlement professionals who will assess whether objectives of the resettlement have been achieved and if not propose corrective measures (World Bank 2017).

6.8 Stakeholder engagement and grievance mechanism⁷

74. Communities, including women and vulnerable and disadvantaged groups will be engaged throughout the project cycle. This will include during planning, implementation, monitoring, and evaluation, the compensation process, livelihood restoration activities, and relocation as per ESS10 guidelines. Most importantly, their meaningful participation in decision-making related to resettlement and livelihood restoration will include options and alternatives from which affected persons may choose. Relevant information must be disclosed to the communities at the appropriate time and using appropriate channels to ensure that the information reaches all community members with a focus on the disadvantaged and vulnerable groups. A grievance mechanism will be established for the project as early as possible to address concerns from PAPs. Existing formal or informal, or a project-specific GM, could be used in contexts where the county governments do not have robust GMs.

6.9 Collaboration with relevant government institutions and capacity strengthening

75. The MoWSI will collaborate with the NLC in undertaking resettlement and/or provision of other necessary livelihood support. The policies and standards of WB ESS5, especially on just and fair compensation, will inform decisions and resettlement and livelihood restoration. The plan should also specify financial responsibilities for each of the agencies involved in the project, appropriate timing and sequencing for implementation steps, and coordination arrangements for addressing financial contingencies and/or responding to unforeseen circumstances.

⁷ Detailed stakeholder engagement and Grievance mechanism will be provided in the next chapters.

CHAPTER 7. METHODS OF VALUING AFFECTED ASSETS

76. This section outlines detailed requirements for determining the value of affected assets. Due to the large number and the localized nature of most micro-project interventions, it is anticipated that a relatively large number of small-scale asset valuations will need to be carried out during the project. It would therefore be unwise and inefficient to deploy an individual valuation expert in each case.

7.1 Types of Compensation

77. Compensation for all land and assets in kind or cash will be required for the following:

- Land;
- Residential buildings, structures and fixtures;
- Cultivated crops (both cash and food crops) and trees;
- Loss of businesses or employment; and
- Resettlement and economic rehabilitation assistance.

78. Although the type of compensation will be the individual PAP's choice, compensation in kind is an option as cash payments raise issues regarding inflation and security. In addition, provision of cash does not ensure that the PAP's income will be restored. For payment of compensation in-kind, the timing and alternative locations will have to be decided and agreed upon by each recipient, in consultation with the Sub-project RAP Committees.

7.2 Valuation of Assets and National Law

79. According to Kenya's Expropriation Law (Art. 65 of the CoK, 2021), any expropriated assets are to be 'justly' compensated using current market rates as assessed by a qualified and registered valuer as described in law under the valuers Act Cap 533.

7.2.1 Valuation Procedure

Use of Standard Valuation Rates

80. Due to the nature of most sub-project interventions, it is anticipated that a relatively large number of small-scale asset valuations will need to be carried out during the project. The PCU/PIU will hire a valuation expert to develop a standardized procedure for asset valuation. This standardized procedure would include a series of reference tables for estimating asset value by type, according to the approximate size and condition of the existing asset.

81. The reference tables would be developed using legally acceptable valuation procedures accepted by both the GoK and WB to ensure fairness and consistency. The valuation approach will consider replacement costs as well as types and levels of compensation under the Kenya law. Valuation of affected assets will be made at their replacement cost.

Preparation of Asset Inventory

82. To prepare an inventory of assets for a sub-project, a field team will visit the affected area to carry out an asset valuation survey. The team will be led by a Sociologist/Resettlement Expert and will include the Local Authorities at the various levels, a representative of the PAPs, and HOAGW4R Project team.

83. During the survey, each asset will be enumerated and inscribed on an inventory in the presence of the PAP and a valuation of the asset carried out using the approach described below. The values of each asset will then be recorded in a register and shown to the affected person for agreement. The register will be signed, and a copy given on the spot to the affected person. The document will indicate when the affected person will be notified, and that the inventory will not be official until a second signed copy, verified by project supervisory staff, is returned to the affected person. At this time, a copy of the grievance procedure will also be availed to the affected person as stated in the GM.

Modes of Compensation

84. Individual and household compensation will be made in cash, in kind, and/or through assistance. The type of compensation will be an individual choice although every effort will be made to instill the importance and preference of accepting in kind compensation if the loss amounts to more than 20% of the total loss of subsistence assets. Table 8 describes the different forms of compensation.

Table 8: Forms of compensation

FORMS OF COMPENSATION	
Cash Payments	Compensation will be calculated in Kenya Shillings. Rates will be adjusted for inflation.
In-kind Compensation	Compensation may include items such as land, houses, and other buildings, building materials, seedlings, agricultural inputs, and financial credits for equipment.
Resettlement and Economic Rehabilitation Assistance	Assistance may include moving allowance, transportation, and labor

85. While making compensation estimates, issues regarding inflation, security and timing ought to be considered. One purpose of providing in-kind compensation is to reduce inflationary pressure on the cost of goods and services. Local inflation may still occur and thus market prices will be monitored within the time that compensation is being made to allow for adjustments in compensation values. The issue of security, especially for people who will be receiving cash compensation payments should be addressed by the local administration.

86. The time and place for in-kind compensation payments will be decided upon by each recipient in consultation with HOAGW4R and the County and local administrations. Monetary payments should be paid at a time in relation to the seasonal calendar to add to existing livelihoods.

87. Local banks and micro-finance institutions shall work closely with the local administration at this level to encourage the use of their facilities in receiving and cashing the compensation for the affected persons, where the case arises, which will positively impact the growth of the local economies.

7.2.2 Basis of Valuation and Methodology

Basis of Valuation

88. Market Value - is an opinion of the best price at which the sale of an interest in property would have been completed unconditionally for cash consideration on the date of valuation, assuming:

- a willing buyer and a willing seller;
- that, prior to the date of valuation, there had been a reasonable period (having regard to the nature of the property and the state of the market) for the proper marketing of the interest, for the agreement of price and terms and for the completion of the sale;
- that, the state of the market, level of values and other circumstances were, on any earlier assumed date of exchange of contracts, the same as on the date of valuation;
- that, no account is taken of any additional bid by a prospective purchaser with a special interest; and
- that, both parties to the transaction had acted knowledgeably, prudently and without compulsion.

7.2.3 Methodology

Summation (Contractors' Approach)

89. Summation involves the assessment of the value of the land (based on direct comparison of sales of vacant land/development sites), and the addition of the 'added value' of the improvements (buildings, etc.) on the land. The added value of the improvements is assessed based on analysis of having regard to market evidence, often on a rate per area basis (e.g., Kenyan shillings per square meter) as obtained from recent contractor's estimates within the area and rates as published by the Institute of Quantity Surveyors of Kenya (IQSK) or Ministry of Public Works.

Direct Comparison (Comparable Sales Method)

90. This method involves comparison of the property to be valued (professionally referred to as 'the subject property') with transactions of similar properties. Comparisons can be made in many forms including straight comparison, or analysis on a rate per area basis (such as rate per square meter (psm), or rate per hectare of land). Recent sales in the areas that are deemed similar in important respects to the subject property being valued are analyzed.

91. The sales price and the physical, functional and location attributes of each of the properties are compared to the property under consideration to arrive at an estimate of value. After the analysis of the differences between the subject property and the comparable properties that sold, a market value for the subject property is then arrived at.

92. For this project, all affected assets will be compensated against the full replacement value, that utilizes the concept of the market value of a similar asset without considering depreciation, and factoring all relocation costs to a new site, while maintaining a similar level of services. It will also include all the transaction costs associated with the land acquisition including but not limited to stamp duty, land control board fees, survey fees, and title deed processing costs.

7.2.4 Calculation of Compensation by Assets

93. Compensation for land is aimed at providing a PAP whose land is affected and used for project purposes, with compensation for land, labor, and crop loss. For this reason, and for transparency, land is defined as an area or homestead (i) in cultivation, (ii) being prepared for cultivation, or (iii) cultivated during the last agricultural season. However, most of the current project footprint is predominantly under pastoralist farming. Therefore, little or no cultivation is expected and most land will be fallow or under pasture or shrub considered fodder for cattle, camels, and shoats.

94. The following methods of calculation are recommended for adoption in the preparation of the standardized asset valuation tables and/or the application of specific case by case valuations in the case of sub-projects that have significant impacts.

Compensation

95. The first premise is of provision of replacement land, if receiving land as compensation, is whereby an equivalent parcel is issued to the affected person and an allowance to replant the crops.

96. In the case where there is no alternative land available, cash compensation at full replacement value should be provided. This should be valued based on the prevailing market value in the locality to purchase an equally productive plot of land in the same locality. In addition, any associated costs of purchasing the land i.e., taxes, registration fees will need to be included in the compensation.

97. In addition, PAPs will be compensated for any permanent improvements made to the land (for example, crops, houses, and sheds). This will be calculated based on the full replacement value of making

the permanent improvement at current prevailing market rates for labor, equipment, and materials, at a new site and replacing the service level as of current or better.

98. Where affected land is only a small proportion of total land owned by the PAP, but renders the remaining land as unusable, the compensation provided should be calculated based on the total land affected (i.e., the actual land lost plus the remaining unusable land). This will likely apply where clusters of boreholes will be developed.

Land Measurement

99. For purposes of measuring land, the unit of measurement would be that which is used and understood by the PAPs and if a traditional unit of measurement exists in the rural areas, that unit should be used. If a traditional unit of measurement does not exist in an area, then it is recommended that land should be measured in meters or any other internationally accepted unit of measurement. In Kenya, acres or hectares are predominantly used in registration of titles and as a measure of area. This should thus be adopted in the absence of local land metrics.

100. However, in such an event, the unit that is being used must be explained to the PAPs and must be related to easily recognizable land features that the communities are familiar with, such as using location of trees, stumps, etc., as immovable pegs. The most important concern of this exercise is ensuring that the PAP can verify using his/her own standards/units of measurement, the size of the affected land. This will ensure transparency in the system and will thus avoid subsequent accusations of wrong measurements or miscalculation of areas. A PAP should know how much land he/she is losing, in terms of size and the replacement land must be at least of that same size and comparable value as the affected land.

Calculation of Crops (cash/subsistence) Compensation Rate

101. The current prices for cash crops if any will be determined and all crops will be valued using a unitary rate. This rate incorporates the value of crops and the value of the labor invested in preparing new land. The respective rates for affected crops by type and status on the farm will be adopted from County Agricultural Crop Price Schedules which are usually updated every year. In the absence of updated schedules updated ones from neighboring counties in similar agro-ecological conditions should be used.

102. Overall, crop values will be determined on:

- A combination of staple foods and cash crops. The 80/20 ratio of land that a farmer typically has in food crops and cash crops is used to determine the chances s/he would lose food crop rather than a cash crop income.
- The value of staple crops to be taken as the highest market price (over 3 years) reached during the year, in recognition of the following factors:
 - Although most farmers grow staple crops mainly for home consumption, they always have the option of selling these crops to take advantage of the market;
 - Farmers most often purchase cereals when they have run out, during drought when prices are high. Compensating at a lower value might put the individual or household at risk; and
 - On average, the highest price of staple food yields a high per hectare value reimburses for the vegetables and other foods that are commonly inter-cropped with staples but are almost impossible to measure for compensation.
- The labor cost for preparing replacement land is calculated on what it would cost a farmer to create a replacement land. This value is found by adding together the average costs of clearing, ploughing, sowing, weeding twice, and harvesting the crop.

Compensation for Buildings and Structures

103. Compensation will be paid by replacing structures (huts, houses, outbuildings, latrines, storage facilities and fences etc.) to improved quality where possible. Where structures are dwellings, the

replaced structure should provide improved living conditions. The other compensation option will be provision of cash compensation at full replacement value. Compensation will be made for structures that are affected adversely because of relocation or resettlement of an individual or household, or directly damaged by subproject activities.

104. Replacement values will be based on:

- Measurements of structures and detail of materials used;
- Average replacement costs of different types of household buildings;
- Structures based on collection of information on the numbers and types of materials used to construct different types of structures (e.g. poles, bricks, rafters, bundles of straw, corrugated iron sheets, doors etc.);
- Prices of these items collected in different local markets;
- Costs for transportation and delivery of these items to acquired/ replacement land;
- Building site preparation;
- Estimates of construction of new buildings including labor required; and
- Any associated taxes, registration fees and process costs.

Compensation for Community Assets

105. Compensation will be provided for community assets identified through the socio-economic survey. In all cases these will be provided in-kind and new facilities will be provided even if there are existing facilities at the new location that will be augmented to replace the loss.

Compensation for Sacred Sites

106. This policy does not permit the use of land that is defined to be cultural property by the Banks Safeguards as shown in ESS 8. It includes other such sites or places/features that are accepted by local laws (including customary), practice, tradition, and culture as sacred. To avoid any possible conflicts between individuals and/or communities/homesteads/chiefdoms the use of sacred sites for any project activity, is not permitted under this project. This is because the preservation or relocation processes will usually be lengthy and costly, often leading renewed inter-or-intra-clan conflicts.

Compensation for Beehives

107. Beehives are placed in various locations in the bush by individuals specializing in honey gathering. If such hives will be disturbed by the project activities, or access to hives is restricted or denied, beekeepers will be free to move them, and hopefully the bees will adapt to the new locations. Beekeepers will be compensated by the value of one season's production costs of honey for each hive that is moved, and any reasonable costs associated with moving the hive.

Compensation for Livestock

108. Compensation will be ideal from two point of views: the market value of the category of animal by age and region; and two the valuation guidelines normally advised by the Ministry of Agriculture, Livestock, Fisheries, and Irrigation; or in case of game by the Kenya Wildlife Service (KWS).

Compensation for Horticultural, Floricultural, and Fruit Trees

109. Banana and Mango trees are featured here below as two examples of the set of primary fruit trees that are likely to be found in project targeted area and are estimated to account for a significant amount of all fruit bearing trees. They are primarily important as a source of:

- Subsistence food for families;
- Cash produce that contributes to the export economy;
- Petty market income in some areas; and
- Shade (in the case of mango trees).

110. Compensation will be made for the estimated value of the trees as established from the District Agricultural Office (DAO) and following rates established by Kenya Forest Services for trees but also

considering the age and girth of the trees, annual productivity index as established by DAO will be considered.

Other Domestic Fruits and Shade Trees

111. As defined in this policy, individuals will be compensated for wild trees which are in their land. Wild productive trees belong to the community when they occur in the bush as opposed to fallow land. These trees will be compensated for under the umbrella of the community compensation.

112. No compensation will be paid for minor pruning of trees. Compensation for removal of limbs will be prorated based on the number of square metres of surface area removed. The total surface area of the tree will be calculated using the following formula: $(\frac{1}{2} \text{ diameter of canopy})^2 \times 3.14$.

113. Table 9 below shows a summary of entitlements to demonstrate the foregoing valuation and compensation methodology. The complete Entitlement Matrix Sample is in Annex 2.

Table 9: Summary Entitlements

Categories of Affected Persons	Categories of Assets Lost/Affected												Basis for Compensation		
	Land	Buildings	Structures					Business		Fixed Improvements	Crops	Trees	Loss of assets	Loss of Businesses	Disturbance
			Fences		Wells		Livestock shelters	Rental	Other						
			Wall	Wood / Wire	Drilled	Hand dug									
Property Owner	√	√	√	√	√	√	√	√	√	√	√	√	√	√	
Business Tenants								√	√	√	√	√	√	√	
Residential Tenants										√	√	√	√	√	
Encroachers		√	√	√	√	√	√		√		√	√	√	√	
Squatters		√							√	√	√	√	√	√	
Loss of Community assets like livestock market					√	√	√								
Formula for Compensation	Size * unit rate at market value	Materials + Construction including labour	Materials + Construction including labour	\$3 per meter ⁸	Materials + Construction including labour	\$200 per well ⁹	Materials + Construction including labour	6 months' rent per tenant	½ of 6 months turnover	Materials + Construction including labour	Expected Yield+ Labour cost	Yield+ Labour cost			\$ 100 per PAP ¹⁰

⁸ Value established by locally acceptable cost estimate of fencing which include the cost of fence per meter, poles, nails and labour.

⁹This is an equivalent of Kshs 20,000 which is the acceptable cost of establishing a shallow well of up to 20 feet @ 1,000 Kshs per foot.

¹⁰ This translates to 10,000 Kshs as a minimum for all the PAPs to improve their lives for those who will not qualify for more than \$100 upon evaluation.

CHAPTER 8. RESETTLEMENT ACTION PLAN PREPARATION AND APPROVAL

8.1 Overview

114. A Resettlement Action Plan will be prepared once the ESIA has been done and subproject land acquisition impact is ascertained. The RAP can be referenced differently depending on the scope of resettlement plan and the type of displacement impacts. Where a project involves only economic displacement, the project may prepare a “Livelihood Plan” or where restrictions on access to legally designated parks and protected areas are involved, the plan may take the form of a “Process Framework” and where the impacts are limited to few households, the project may prepare an Abbreviated RAP (ARAP). This chapter provides summary of RAP preparation and approval processes and responsible entities.

8.2 Screening for involuntary resettlement

115. The first stage in the process of preparing the individual resettlement plans is the screening process to identify the land/areas that are being impacted. The screening will also contain the analysis of alternative sites. The subproject screening is used to identify the types and nature of potential impacts related to the activities proposed under HOAGW4R project and to provide adequate measures to address the impacts. Screening for resettlement issues shall be part of the environmental and social screening as is detailed in the ESMF. Subproject screening will be incorporated into the subproject application form. The goal is to identify and consider resettlement issues as early as possible. The project will consider receiving technical assistance from the World Bank to ensure proper implementation of the resettlement processes. The screening checklist form is shown in *Annex 1* as provided in the ESMF.

116. The list of subprojects that have potential resettlement issues will then be subjected to a comprehensive sensitization and consultation process with the potentially impacted communities and the outcome of this process will be documented for each site. The list and the outcome of the consultative process for each site/subproject will then be sent to the respective county and to confirm, approve, disapprove, refer for further consultation and/or take a final decision on each proposed site/subproject. Carrying out the screening process in this way is designed to give it the integrity and transparency it needs to allow all stakeholders to have confidence in the process. Once subprojects have been approved using this consultative process, the selected locations will then be subjected to a socio-economic study (this study will include determination of impacts) and preparation of individual Resettlement Action Plans (RAPs).

8.3 Baseline socio-economic data and census

117. An important aspect of preparing a RAP is to establish appropriate socio-economic baseline data to identify the persons who will be displaced by the individual subproject, to determine who will be eligible for compensation and assistance, and to discourage inflow of people who are ineligible for these benefits. During this process, census of those affected will be obtained. In summary, the census will consolidate information that:

- i. provides initial information on the scale of resettlement to be undertaken;
- ii. gives an indication of further socio-economic research needed to quantify losses to be compensated and, if required, to design appropriate development interventions; and
- iii. establishes indicators to be measured later, during M&E.

118. Baseline data for subproject RAPs will include number of persons; number, type, and area of the houses to be affected; number, category and area of residential plots and agricultural land to be affected; and productive assets to be affected as a percentage of total productive assets. Specific information to be captured will include: (i) personal details of PAPs including family members; and (ii) current monthly income generated from activities before the census (iii) the disadvantaged and vulnerable groups and individuals that will require additional assistance. This information will allow for a detailed development of the activity-specific RAP and will support accurate budgeting for the activities to take all

compensation measures into account. It will further create the basis for all monitoring activities on resettlement.

119. The census will be announced prior to commencement using local communication channels, including community leadership, local radio, public announcements s detailed in the SEP. A hard cut-off date will be determined and announced by the PIU in consultation with local authorities, including informal authorities. Persons that will encroach in the sites after the cut-off date will not be considered. Table 10 presents the key resettlement census questions and key data to be collected in the census for affected PAPs. Table 10 is a sample Household Survey Interview guide/questionnaire.

Table 10: Sample resettlement assessment questionnaire

Resettlement Assessment	
Date:	
Ward:	Subcounty: County:
Planned Activity:	
Area affected: GPS coordinates	
Key questions to be elaborated on through participatory research tools	
Current status of the land: community/private/public?	
Is there a title/allotment letter/any document showing legal ownership (Please attach photograph or copy)?	
If this is community land – it is registered/unregistered/registration process is ongoing?	
What land disputes exist in this area? Could they affect this site?	
What are the different claims on land ownership and use?	
Are there historical population movements that still contribute to disputes over land?	
Define the residents and users of this land (including nomadic pastoralists) and how and when they can be consulted to seek their agreement for the use of land for the subproject?	
Which institutions and authorities in this area help solve land ownership and usage claims?	
Have any evictions or removal of structures/assets taken place to clear land for this activity?	
Any structures or assets that will need to be removed for this construction?	
Who do they belong to and how will they be compensated/replaced?	
Are there any services or ceremonies that will be affected by the subproject?	
Names of individuals that will be economically or physically displaced? (Complete household questionnaire) and how they will be affected:	

Table 11: Sample household interview guide/questionnaire

Background Information	
Questionnaire Code:	Survey Date:
Interviewer Name:	District & Street:
Family Members	
Name:	Gender: Age:
Position in family (tick 1): Parent: Child: Other:	Education level: Occupation/main source of income: Monthly Income:
Specify other:	
Work or business location:	Length of time in current work/ business:
Housing and Tenure Status	
Type of house: Number of bedrooms:	Tenure status (tick 1): Owned: ... Rented: ... Lent to IDP... Length of Residence time:
Business	

Type of business affected: Registration status: Avg. monthly income and profit:	Name of business owner: Permanent number of employees: Temporary number of employees:
Affected Community Facilities	
Description affected facility:	
Estimated number of affected persons:	
Size of land impacted	
Other assets owned by PAP	
Source and amount of monthly income	
Amount of income impacted	
Gender of household and	
Any other information	

8.4 Displacement prior to project approval

120. The project management will need to ensure that respective wards and counties, as well as communities, are aware that no forced displacements will be performed to pave way for project implementation prior to the development and implementation of a RAP and/or livelihood plans (LPs). If such evictions for the purpose of implementing a project activity have taken place prior to the preparation of the RAP LRPs, ESS5 requirements will be implemented retroactively.

121. During the screening and the assessment phase, the county/sub-counties/wards and local communities will confirm that no such eviction has taken place. These findings will be subject to review by the PCU and the World Bank. Information on the illegality of such evictions will be disseminated prior and during the activity to allow for potential affected parties to file respective complaints. The information dissemination will be instituted following the approaches outlined in the SEP.

122. Where forced evictions to pave way for project investments have occurred, an assessment will be included in a social audit, in which: (i) the adequacy of the mitigation measures that were undertaken are assessed against the requirements of ESS5; (ii) possible gaps in the requirements of ESS5 are identified where applicable; (iii) a corrective action plan is developed and implemented to mitigate and offset any harm done and close gaps; and (iv) any grievances related to the displacement or any other outstanding issue are identified.

123. While the PIU will implement the assessment (through an independent consultant or company as necessary), the Government will budget for all mitigation measures identified in the RAP/LRPs and in the social audit conducted under the assessment including compensation costs, which shall not be part of the project funds. The commencement of activities in this case will require approval of the audit findings and the identified corrective actions from the PCU and the World Bank. Where the provisions of ESS5 requirements cannot be met, the subproject will be screened out and cannot be implemented.

8.5 Preparation of a subproject RAP

124. The preparation of site-specific RAPs will be undertaken by the PCU under the leadership of the social specialist for subprojects that have been determined to result in potential involuntary resettlement. When a RAP is required, the PIU through PCU shall submit completed studies along with their subproject application to the World Bank for appraisal and approval. External assistance may be considered for the preparation of RAPs, depending on the complexity of the resettlement impacts. The RAP/LRs will be prepared once the site locations have been identified and screened, and after the resettlement assessment and census have been conducted but before any commencement of activities on the ground. The schedule for the preparation and implementation of the site-specific RAP will be based on the principles of this RPF, and must be agreed on by the PCU, the relevant government authorities and affected PAPs. This schedule must ensure that no individual or affected household is displaced due to the project activities before compensation is paid and resettlement sites with adequate facilities are prepared and provided.

125. Consultants may be hired by the County level PIUs to develop the RAPs or studies during the start of the project. The consultants will build the capacity of the PIUs and IAs on RAP development and implementation. The PIUs will be trained on the environmental and social framework and standards as well as supported to strengthen and/or set up systems for monitoring and implementation of the ESF instruments.

126. The scope of requirements and level of detail of the resettlement plan will vary based on the magnitude and complexity of resettlement. The plan is based on up-to-date and reliable information about (a) the proposed project and its potential impacts on the displaced persons and other adversely affected groups, (b) appropriate and feasible mitigation measures, and (c) the legal and institutional arrangements required for effective implementation of resettlement measures (WB 2017). The RAP will describe the impacts that give rise to resettlement and the need for compensation, the types of affected parties, what each type of PAP is entitled to (in an Entitlements Matrix), the procedures for resettlement and compensation and the implementation schedule and budget for resettlement. It will also describe the alternative land and/or assets identified for non-cash compensation. The basic elements of a RAP are provided in Annex 5.

8.6 Review and approval of subproject RAPs

127. Subprojects proposed RAP will be reviewed and recommended by the PIUs. In this process, PIUs will review eligibility for subprojects based on field appraisals, which will include results of the E&S screening and assessment. The RAP will be submitted once completed to the MoWSI PCU for quality assurance and then submitted to the World Bank for review and approval in compliance with the project institutional administrative arrangements.

8.7 Database management for PAPs

128. Each PAP will be provided with among others: signed documents recording of the initial situation, all subsequent subprojects use of assets/improvements, and compensation agreed upon and received. The Resettlement Committee and PIU will maintain a complete database on every PAP impacted by the project, land use requirements including relocation/resettlement and compensation, land impacts or damages. Each PAP receiving compensation will have a database containing:

- PAP Demographic information;
- Number of dependents/PAP claims;
- Amount of land available to the PAP when the database is opened; and
- Additional information will be acquired for PAP's eligibility for resettlement and/or compensation:
 - Level of income and of production; and
 - Inventory of material assets and improvements in land and debts.

129. Each time land is used/acquired by a subproject, the database will be updated to determine if the PAP is being affected to the point of economic non-viability and eligibility for compensation/resettlement or its alternatives. This database will provide the foundation for M&E, as well as documentation of compensation agreed to, received, and signed for.

8.8 Preparation and Approval of ARAP

130. In sub-projects where the resettlement impacts are limited to few households, the project will prepare an Abbreviated RAP (ARAP). Therefore, an ARAP will be prepared for sub-projects with minor land acquisition, fewer than 200 PAPs, and no physical relocation. The level of due diligence and detail in process and outcome documentation for an ARAP is like that in a RAP.

131. The structure and approval process of the ARAP will be the same as that of the full RAP report. For instance, the needs of the PAPs will be fully appreciated and addressed even though the resettlement impact resulting from a sub-project will be minimal.

CHAPTER 9. POTENTIAL RESETTLEMENT IMPACTS

9.1 Overview

132. This RPF applies to all economically and/or physically displaced persons regardless of the total number affected by the severity of impact and whether they have legal title to the land. Project affected people are those who stand to lose, because of the project, all or part of their physical and non-physical assets, including homes, communities, productive lands, resources such as rangelands, or important cultural sites, commercial properties, tenancy, income-earning opportunities, and social and cultural networks and activities. Such impacts may be permanent or temporary. This might occur through land expropriation, restricted or reduced access to areas such as pastureland. Particular attention will be paid to the needs of disadvantaged and vulnerable individuals and groups including those below the poverty line, the landless, youth, the elderly, women and children, and other historically disadvantaged groups or other economically and/or physically displaced persons who may not be protected through the country's land compensation legislation.

133. Involuntary resettlement impacts will depend on type and size of subprojects to be identified and implemented during the project implementation phase. Component 2 of the project will use community driven development (CDD) approach where the actual project type and the exact location is not yet known at this stage. It is however envisaged that most of the projects' activities will be in the water sector for various uses; domestic and livestock. Land will be needed for the subprojects while involuntary resettlement will be avoided as much as possible and in case it is inevitable, compensation will be provided to those directly affected.

9.2 Project land requirements

134. Component 2 of the project will have activities that may require land acquisition or cause restriction of access to lands. Table 12 lists possible activities under the component that may trigger ESS5.

Table 12: Project activities that may require land acquisition and restricted land use

Potential Sub-projects	Activities likely to require land acquisition or restrict access to land
Water infrastructure – boreholes, sand dams, shallow wells	For sub-projects like boreholes, there will be need for land acquisition to protect the investment. The land may be fenced off for the security of the machines and supplies. This will restrict access as the borehole will only be opened for use as agreed by the users. For subprojects like sand dam and shallow wells, there will be restricted access to protect the catchment and underground water quality.
Town/urban water supply	Reticulation of water for urban supply may cause partial or full physical displacement. The main water supply may pass through people's homes and depending on the size of the supply infrastructure, families may lose their homes and land.
Catchment protection or restoration	Such sub-projects may include tree planting, erosion control, and improved management and sustainable use of existing forest and vegetation resources among others. These subprojects may be implemented in areas that are already earmarked for such activities and/or new sites could be identified. For existing sites, there may be additional restrictions of use as the new activities are implemented. For new sites, land will be acquired, and there will be restricted use. The new sites acquisition may affect livelihoods - it may have been a dry season grazing area or stock routes. Communities will have to be compensated and livelihood restored and/or new livelihood options introduced.
Aquifer recharge and other groundwater conservation infrastructure	In this category sub-projects will include surface dams, sand dams, and conservation of any existing wetlands. Land will be required for the infrastructure. The owners will be compensated, and livelihoods affected will be restored and enhanced appropriately.

9.3 Involuntary resettlement risks and mitigation measures

135. The sub-project sites for the project are not yet definitively identified. Therefore, at this stage it is neither possible to determine the exact location, demographics, and impact on assets and/or livelihood of neither the PAPs nor the resettlement related impoverishment risks they might face, if any. However, the project will be implemented ensuring no or minimal involuntary resettlement, with minimal adverse social

risks. Subprojects will be sited in such a way as to avoid the physical relocation of people and impacts on their livelihoods, and where there are negative impacts, people and groups will be compensated in such a way as to not leave them worse off.

136. The social risks from the subprojects will depend on the location and size of the project. In urban areas where individuals legally own and/or claim ownership of land, there could be protracted process for acquisition and compensation. The problem is compounded by the ongoing registration of community land which may cause tensions within the communities. To mitigate such risks, once sites/locations become clear and economic and/or physical impacts that require compensation mitigation actions is ascertained, sub-project RAPs will be prepared as required by World Bank guidelines. The RPF will identify the typical subproject impacts anticipated for the prototypes of investments that are envisaged under component 2 and develop a checklist to guide triggering the policy and guidance on actions and forms of compensation that should be provided. See Table 13 for more details.

Table 13: Potential social and environmental risks of involuntary resettlement

S/N	Type of impact	Description of potential impact / issue and linkage to project component	Social Risk	Proposed Mitigation measure	Category of PAP affected
1	Loss of fallow and agricultural land	Subprojects that include civil works for rehabilitation and construction of new water infrastructure that include boreholes, shallow wells, sand and sub-surface dams in dry riverbeds may cause loss of land, as the back flow may lead to loss of farming land or reduction of flow to downstream water users. Given that land is a factor of production, it may lead to loss of livelihoods. Reduced flow to downstream users may cause community conflicts as communities may blame each other and the project for the loss.	Moderate	<ul style="list-style-type: none"> Community consultation to weigh the pros and cons of technological choices considering factors such as (a) equity of access to water resources and abstraction rights; (b) affordability constraints for different types faced by communities; and (c) upstream and downstream impacts on water use including environmental flows Livelihood restoration and improvement programs will be implemented. During environmental and social assessment such challenges will be assessed, and appropriate measures defined. 	<ul style="list-style-type: none"> Farmers Agro-pastoralists Pastoralists
2	Restriction on land use and access	Catchment and aquifer restoration activities such as catchment restoration, aquifer recharge activities and tree planting may restrict use and access to allow for regeneration. Such investments may lead to change in condition and size of existing land due to adoption of new land use systems hence potentially leading to pastoralists losing grazing land resulting to resource use conflicts between pastoralists. It may also lead to conflicts between the farmers and pastoralists.	Moderate	<ul style="list-style-type: none"> Meaningful and inclusive community consultation to ensure they are involved in the subproject identifications, prioritization and mitigation measures. Development of water and rangeland management systems including sharing agreements between communities. Increase awareness of the resource constraints within the community and considerations of equitable resource management across different stakeholder groups. Productive livelihood development with priority investments in land management, cropping, and livestock to be supported by the project. Provide pastoralists with access to an equivalent area of replacement grazing lands of equal or greater potential productivity and locational advantages, and assistance in reestablishment. and / or Improvements in carrying capacity of remaining grazing lands. 	<ul style="list-style-type: none"> Pastoralists Farmers Agro-pastoralists

S/N	Type of impact	Description of potential impact / issue and linkage to project component	Social Risk	Proposed Mitigation measure	Category of PAP affected
3	Inequality in accessing and benefiting from involuntary resettlement compensations and livelihood support.	Due to traditional/customary biases, women, minorities and disadvantaged groups like nomadic pastoralists and youths may lose out on compensation as they do not own land or other assets. Furthermore, they may be excluded from decision-making process.	Moderate	<ul style="list-style-type: none"> Undertake a Social Analysis and Social Assessment as part of RAP to guide implementation decisions. Enhance the capacity of community level governance structures on among others the importance of inclusion and participation, and conflict resolution. Ensuring the inclusion of all stakeholder groups e.g., pastoralists, irrigated farmers, rainfed farmers, landless laborers, women, and youth in project processes including involuntary. Implement the inclusion plan to ensure that all disadvantaged and vulnerable individuals and groups have access to information and project benefits. 	<ul style="list-style-type: none"> Pastoralists, Irrigated farmers, Rainfed crop farmers, Landless laborers, Women, and youth
4	Gender discrimination, Gender Based Violence and Sexual Exploitation (GBV/SEA)	Women and girls may be subjected to intimidation, sexual exploitation, abuse, and harassment and forced prostitution for them to benefit from compensations and livelihood support.	Moderate	<ul style="list-style-type: none"> The project will include identification and inclusion of key channels—outside traditional dispute resolution or grievance redress mechanisms—to enable safe and confidential reporting of incidence of sexual exploitation and abuse and other forms of GBV. Identified GM focal persons will also be trained on effective response to cases of GBV should they occur. 	Women and youth
5	Discrimination and marginalization of disadvantaged and vulnerable groups including IDPs, PWDs, women and child headed households, and minority clans/sub-clans	Resettlement may exacerbate discrimination of marginalized individuals and groups who may not have a say in the decisions made on the project investments	Moderate	<ul style="list-style-type: none"> Ensure that resettlement does not cause any further discrimination, marginalization or displace IDPs. Inclusive and meaningful engagement of all PAPs and their representatives in all involuntary resettlement and project processes. Implement the inclusion plan developed as part of this project. Implement affirmative action where necessary. 	<ul style="list-style-type: none"> IDPs

CHAPTER 10. RAP IMPLEMENTATION ARRANGEMENTS

10.1 Overview

137. The implementation arrangements, and M&E of RPF and RAPs, will be within the realm of overall project implementation. This can be adjusted depending on the complexity and scope of the subprojects. This chapter examines the best-case scenario of how RPF and RAP will be implemented, monitored and evaluated.

10.2 Institutional arrangements

138. Several institutions will be involved in the implementation of this project. While MoWSI will have an overall coordination role, the main implementing agencies will be the Water Resources Authority (WRA), mainly for component 1, and the Water Sector Trust Fund (WSTF), mainly for component 2. There will also be a Project Steering Committee set up at the MoWSI, which will help the PCU and implementing agencies to resolve the project coordination challenges and escalate issues as appropriate to ensure smooth and timely project management.

139. The MoWSI will be the project coordinator to ensure smooth, effective, and coordinated implementation and avoid overlaps, duplication, or conflicts. In particular, MoWSI will be facilitating the flow of funds, ensuring inter-agency collaboration across the different institutions that will be part of this program, and will be in charge of the M&E of the project.

140. The two implementing agencies (WRA and WSTF) will be responsible for implementing the project activities and will have a full technical and operational support team to ensure successful and timely delivery. PIUs in these IAs will be established to implement project activities. These IAs will be composed of a team leader, a finance management expert, a procurement specialist, a social safeguards specialist, an environmental safeguards specialist, an M&E specialist and a communications specialist. Each of these entities will have a designated account (DA) under the project to avoid payment delays. In the case of WSTF, given this is based on a PBG approach, the DA will be flexible and without ceiling, and disbursements will be according to results forecasted for a given period. Further, five sub-PIUs will be set up in each PBG participating counties to ensure coordination and ownership by the counties.

141. There will be Ward Development Committees (WDC) formed to ensure that the project runs smoothly. These committees will be involved in the entire project lifecycle. The membership of the Committee will include the local leadership, CLMT in areas with community land; women; youth and groups presenting vulnerable and disadvantaged groups. These committees will also ensure that information reaches all the project beneficiaries, and they will flag out any issues that will require redress by the project. The operationalization of these committees will be worked out during the ESIA process.

10.3 RPF and RAP Implementation.

142. Once cleared and approved, the compensation, resettlement and relocation activities of the RAP will commence. After completion of the census, public notice on the eligibility, cut-off date will be given. The government/MoWSI will also issue formal notice banning the construction or approval of construction of new buildings or capital improvements in areas to be affected by the resettlement. The schedule of implementation will be prepared based on the principles of this RPF, and must be agreed between the PIUs, relevant municipality and/or other government jurisdiction, and affected PAPs as outlined in the Kenya laws and World Bank ESF requirements. The schedule will provide information on the sequence and timeframe of the necessary activities for land acquisition, release of funds to the acquiring agency, payment of compensation for various categories of loss and relocation, transfer of land, grievance redress, and M&E.

143. The timeline for implementing the RAP will ensure that no individual or affected household would be displaced (economically or physically) due to civil works activity before compensation is paid and resettlement sites with adequate facilities are prepared and provided for to the individual or homestead affected.

144. Keeping affected people fully informed of their rights and responsibilities is crucial to the success of resettlement planning. To achieve this objective, resettlement information including details on eligibility, rates of compensation and other entitlements, a timetable for implementation and all applicable grievance procedures must be made accessible and understandable. Information should be translated into local dialects and indigenous languages and broadcast through media that are accessible to literate and non-literate individuals (including local radio stations, television, mobile video broadcasting, public notice boards, newspapers, leaflets and flyers, town criers, and door-to-door canvassing). Special efforts should be made to reach vulnerable and disadvantaged individuals and groups lacking access to public media and information exchange. The key parties for implementing the resettlement activities are presented in Table 14.

Table 14: Resettlement activities and responsible Parties

NO	ACTIVITY	RESPONSIBLE
1.	Preparation and Disclosure of RPF	MoWSI
2.	Selection of Sub-Projects sites	MoWSI/IAs, counties, communities
3.	Screening of the subproject	PCU
4.	Environmental and Social Assessment	PCU
5.	Organize and implement census of affected people and valuation of affected assets in the framework of the development of a RAP	PIUs and Local government/institutions
6.	Marking of affected properties, inventory of affected properties, Notifications, Request for proof of eligibility, consultations	PCU and county government/institutions NLC
7.	Establishing of Resettlement Committees	PCU
8.	Consultations, planning and Preparation of RAP	PCU
9.	Identify vulnerable people when developing RAPs	PCU/PIUs/communities
10.	Review of RAPs	PCU/PIUs
11.	Approval of RAPs	World Bank
12.	Disclosure of RAPs	PCU, World Bank
13.	Disclosure of compensation values. Making of offers Processing of payments	PIUs, resettlement committees, NLC
14.	Vetting of request for compulsory acquisition of land, oversight of land expropriation and land issuance of titles to resettled PAPs.	PCU/PIUs and county government/institutions
15.	Internal Monitoring of RPF and RAP	PCU/PIUs
16.	External Monitoring	World Bank and IVA
17.	Reporting on RAP implementation	PCU/PIUs
18.	RAP audit	WB
19.	Representing government for any law court or redress cases	PCU/PIU/Attorney General

10.4 Budget and Funding Arrangements

145. Budgeting and financing are critical steps in the resettlement planning and implementation. Specific RAPs prepared for HOAGW4R project must therefore provide indicative budgets which should specify all activities in the resettlement implementation process, their estimated costs as well as the source of funds. It is expected that the budget for resettlement will be prepared by PCU in collaboration with MoWSI PCU and Ministry of Finance and will be determined during the RAP preparation exercise after the baseline data has been collected and all potential impacts have been identified.

146. The GoK is responsible for financing of any land acquisition and resettlement. The payments can be made on specific resettlement activities/items after review and approval of the expenditure by the HOAGW4R project staff with close oversight and supervision by the Ministry of Finance and the World Bank. Since there could be disputes during the compensation process, for instance, where a PAP rejects

the compensation amount offered, it is proposed that an escrow account should be established to deposit the offered amount, plus 10% for resolving the dispute concerning the said offer of compensation in a timely and equitable manner. In order to ensure that the compensation and resettlement component will be implemented smoothly, efforts will be made to develop realistic cost estimates during preparation of the RAP. It is expected that not all eventualities will be foreseen, and a reasonable contingency (max. 10%) should be included. Provision is also included in the budget for training of staff in all aspects of resettlement plan preparation, implementation, and M&E. The budget should specify the annual inflation rates to be applied to all cash payments.

147. Since at this stage it is not possible to prepare accurate budgets as subprojects are yet to be conceived, guidance for preparing the resettlement budgets is offered in this RPF to include the following items:

- a) Full replacement cost of lost assets, i.e., land, structures, crops, trees, livestock, and common infrastructure;
- b) Cost of providing replacement land including transactional expenses, land search costs, cost of developing infrastructure and putting up replacement housing, if need be;
- c) Income and livelihood restoration costs;
- d) Cost of relocation of people and their belongings, i.e., moving/transport allowance;
- e) Special resettlement assistance costs for vulnerable and disadvantaged groups, e.g., training and new skill development, cost of acquiring re-employment equipment, logistical support costs, etc.;
- f) Transitional support costs including costs of obtaining alternative accommodation during the transition period;
- g) Cost/expenses incurred in performing traditional/cultural ceremonies necessary in grave removal/exhuming and reburying bodies;
- h) Costs of obtaining architectural designs, construction management costs and structural approval costs;
- i) Cost of compensation for lost employment wages;
- j) Monitoring and auditing costs;
- k) Cost of building institutional capacity for resettlement implementation, e.g., constructing new offices/hiring offices for project management staff, cost of hiring project resettlement staff if needed, training staff and meeting their welfare needs; and
- l) Any other reasonable cost determined during RAP preparation for specific investment project/s

148. A sample RAP implementation budget is provided in Table 15.

Table 15: Sample RAP implementation budget

Activity		Estimated Cost (US\$)	Remarks
1.	Initial sensitization training/workshops	xxxxxxxxxxxx	Preparatory workshops/barazas and formation of stakeholders' structures at the national and county levels
2.	Capacity building training workshops for implementing structures	xxxxxxxxxxxx	Specifically for implementation and monitoring processes
3.	Preparation of RAPs	Xxxxxxxxxxxxx	RAP whether in-house or outsourced
4.	Provision for compensation for land and structures	To be determined during preparation of RAP based on market values and current	While component 2 of HOAGW4R Projects largely existing facilities, components 1&3 will require physical investments that may potentially cause displacements and disruption of livelihoods

Activity	Estimated Cost (US\$)	Remarks
	construction costs. xxxxxxxxxxxxxxxx	
5. Provision of compensation for trees and crops	To be determined during preparation of RAP based on prevailing market values for trees and crops xxxxx	When construction starts there may be damage to trees and crops on land acquired or adjacent land
6. Provision of Disturbance Allowance	15% of the cost of land, structures, trees, and crops, being compensation for disturbance	Lump sum figure of 15% of compensation amount
7. Cost of relocation of people and assets	This is a relatively small part of the compensation and could be absorbed within the amount for contingency xxxxxx	Given that people move to different locations and since it is not known at the time of preparation of RAP, this may be presented as a claim by each PAP as appropriate.
8. Livelihood Restoration / enhancement	This is as important as disturbance allowance and estimated at 15% of the compensation amount	This may include credit/financial grants, mentoring/investment advisory to beneficiaries, promotion of sustainable ecosystem activities, monitoring etc.
9. Validation training workshops for RAP	xxxxxxxxxxxxxx	Individual RAPs require concurrence at all structures to be implementable
10. Business advisory/financial management training for PAPs	Xxxxxxxxxxxxxxxxxx	When compensation amounts are known, there would be need for investment advisory to be given to beneficiaries
11. Monitoring and auditing	xxxxxxxxxxxxxxxx (50% of the cost of RAP preparation)	Done during implementation of RAP and at completion as quality control measure
12. Contingencies (10%) of total cost	(10% of total above)	
13. Grand Total	Xxxxxxxxxxxxxxxxxx	

149. **RPF Budget:** The RPF budget is mostly for the preparation of the RPF. The rest of the activities of RPF implementation will be part of the project processes. Table 14 provides an indicative budget of the RPF preparation.

Table 16: Budget for RPF preparation

Activity	Estimated Cost (US\$)	Remarks
Consultancy to prepare RPF	Xxx	This may be supported by World Bank
Sensitization and training workshops	Xxx	Sensitization meeting on ESF instruments including RPF
Consultation for RPF development and validation	xxx	Stakeholder workshops

Activity	Estimated Cost (US\$)	Remarks
Translation of summary RPF to Kiswahili language	xxx	Translation consultancy

CHAPTER 11. STAKEHOLDER CONSULTATION AND INFORMATION DISCLOSURE

11.1 Overview

150. A stand-alone Stakeholder Engagement Plan (SEP) has been developed for this project. The SEP provides general guidance on the identification and analysis of the stakeholders, their interests and influence, stakeholder engagement program detailing timing and schedule of engagement, strategy for information disclosure and consultation, monitoring and reporting of stakeholder engagement and grievance mechanism. For the involuntary resettlement processes, the project will ensure inclusivity of all targeted PAPs at all levels. PAPs will be consulted through a variety of means, as spelled out in the SEP and as necessitated by the resettlement assessment methodology. Furthermore, all information about the activity that triggers the preparation of a RAP, resettlement and compensation will be publicly disclosed, following the modalities of disclosure laid out in the SEP. This is to ensure that all PAPs, interested parties and vulnerable and disadvantaged individuals and groups have the opportunity to participate in the decision-making processes and voice their concerns as needed.

151. Most crucial is that during the implementation phase of the RAP, all PAPs have access to all relevant information, including their rights to resettlement, compensation, payment and RAP activity schedules, identity of leading authorities and implementers, etc. The PAPs and interested parties must be given the opportunity to provide their inputs and feedback on the planned activities. Furthermore, they must receive all information on the Project GM, and the GM must be available to all PAPs to file potential complaints. PAPs will be informed of the amount of cash compensation or land offered for compensation for their consideration and endorsement before the actual payment is made.

11.2 Stakeholder identification and analysis

152. The SEP has identified key stakeholders for the project. A detailed stakeholder analysis will be done when subprojects and their locations will have been identified and during the processes of environmental and social screening, ESIA, census for resettlement and during development of the site specific RAPs. Broadly, the stakeholders for resettlement include government ministries at national and county levels including but not limited to, MoWSI; Ministries responsible for land; social services and labor, women, and gender; environment; and county governments who have capacities on land administration. At the community level, stakeholders include PAPs, men, women, boys, girls, youths, elders, farmers, agro-pastoralists, minorities, IDPs, disadvantaged and vulnerable groups eligible for resettlement as defined by ESS5. Others include interested parties who may be affected by subprojects and eligible for resettlement like vendors, businessmen and women. Local NGOs, FBOs, development partners who may have valuable knowledge and experiences that the project may need to utilize.

11.3 Stakeholder engagement processes and strategy

153. The PCU implementation team will engage stakeholders all through the project cycle including during planning, preparation, and disclosure of RPF and RAPs, and then implementation, M&E of compensation process, livelihood restoration and relocation processes. During the preparation of RPF and RAP, stakeholders will be consulted to provide the necessary information for effective conduct of resettlement exercise. Some examples of stages and methods of consultations and expected outcomes are: community meetings to understand the local contexts including identification of those eligible for resettlement, relocation and compensation; review resettlement alternatives; workshops for institutions to among other roles, understand legal and institutional frameworks; focus group discussions for specific groups such as disadvantaged and vulnerable groups; expert meetings to provide expert knowledge on land matters and displacement and resettlement. Schedules will be prepared detailing consultations dates and venues, who will be consulted, methods of consultations, and when the time is ripe for implementation of resettlement plan, information on date of displacement, transition time, compensation timelines, among others.

154. Information will be disclosed to different categories of stakeholders using different channels comprising of mass media (local radio stations, TVs, newspapers), websites, press releases, social media,

etc. The MoWSI, NPCU, PCU and PIUs will be responsible for providing this information. Specifically, the E&S and communication specialists will ensure that information is conveyed using right format and language that the audience understands best.

11.4 Proposed strategy to incorporate the views of disadvantaged and vulnerable groups

155. The project will ensure that women, PWDs, minority clans/sub-clans and other members of vulnerable groups participate effectively and meaningfully in consultative processes and that their voices are heard. Some specific measures will be employed to ensure their active participation. For example, women may be more outspoken in women-only consultation meetings than in general community meetings. Similarly, separate meetings may be held with young people, PWDs or with minority groups. Further, it is important to rely on other consultation methods as well, those that do not require physical participation in meetings, such as social media, SMS, or radio broadcasting and call-in, to ensure that groups that cannot physically be present at meetings can participate. For mobile groups like nomadic pastoralists, appropriate methods to reach them will be improvised based on the local circumstances.

156. Women and other vulnerable groups will be engaged on an ongoing basis throughout the life of the project. Women voicing their concerns and contributing to the decision-making process on issues such as resettlement of female headed households and other marginalized group will be encouraged. The vulnerable and marginalized groups will have their representatives in the relevant committees so that their interests are taken on board.

11.5 Consultations held to date

157. Engagements and consultations on the RPF have been conducted with key institutional stakeholders including the relevant Government Ministries, Departments, and Agencies at the national and county levels. Engagements and consultations were held with key stakeholders, as per World Bank guidance under the COVID-19 pandemic.

CHAPTER 12. GRIEVANCE MECHANISM

12.1 Overview

158. The World Bank ESS10, requires Bank-supported projects to facilitate mechanisms that address concerns and grievances that arise in connection with a project. One of the key objectives of ESS10 (Stakeholder Engagement and Information Disclosure) is 'to provide Project Affected Persons with accessible and inclusive means to raise issues and grievances and allow borrowers to respond and manage such grievances (World Bank 2017). The project Grievance mechanism (GM) should facilitate the project to respond to concerns and grievances of the PAPs related to the E&S performance of the project including resettlement issues. The HOAGW4R project will provide mechanisms to receive and facilitate resolutions to such concerns. A stand-alone SEP that contains a GM framework has been prepared for the project. This section provides highlights of GM in involuntary resettlement processes and activities (the detailed GM can be referenced from the SEP).

12.2 Grievance Sources in Resettlement

159. Grievances may arise at different times of resettlement processes, from the consultation process that may not been inclusive, composition of local committees spearheading community mobilization, during identification of eligible beneficiaries, compensation rates , location of resettlement sites, and the quality of services at new sites, to cite but a few. A grievance could be a simple query or inquiry, concern, issue, or formal complaint that affects the lives of aggrieved parties. The information on GM processes and structures will be disclosed to stakeholders—including PAPs, recruited workers and vulnerable and disadvantaged individuals and group—using appropriate channels such as vernacular radio, websites, government reports and speeches, community meetings, social media, toll-free telephone lines, documentation, and dissemination of project leaflets or brochures. During screening of the subprojects, census during ESIA, and during RAP development, the right channels of communication appropriate for different categories of stakeholders will be identified, chosen, and used.

160. The GM to be proposed and used during the preparation of the subprojects' RAP shall seek to achieve the following objectives:

- i. Encourage registration, acknowledgment, and recording of all concerns or issues raised by aggrieved;
- ii. Identify the frequencies of issues raised: for instance, unpaid compensation; inadequate compensation; disregard for local ritual ceremonies; land acquisition; workplace concerns; among others;
- iii. Ensure that complaints are properly registered, tracked and documented, with due regard for confidentiality;
- iv. Address the composition of a committee that would handle all grievances;
- v. Inform people of the public information center establishment and access;
- vi. Establish procedures for the GM to enhance easy access, transparency and accountability, and tackle escalation of grievances beyond the expectations of the project;
- vii. Manage the concerns raised by aggrieved parties to achieve a win-win situation within a reasonable timeframe that would comply with national and international best practices; and
- viii. Record all resolutions agreed upon by all parties involved and ensure that aggrieved persons are satisfied with every outcome of remedial resolution to foster harmony in sub-projects.

12.3 Grievance mechanism structures

161. The project GM will apply to all project processes and activities within the project life cycles. The grievances will be dealt with at various level by GM committees at MoWSI, PCU/PIUs and at the community level by Ward Committees/Resettlement Committees. The Social Specialist have the primary responsibility to ensure that the grievances are received and addressed. The project will review capacity of these structures to attend to GM related resettlement issues and if found necessary, a temporary special resettlement redress committee will be set up and/or a short-term consultant with expertise on land and resettlement will be hired to support the social specialist at PCU and PIU levels. Given that counties have a role in land administration and management, they will a play big role in the resettlement

plan development and implementation, and related grievances. The counties will be included in the local level grievance committees. See Figure 1 for the proposed structure of the project GM.

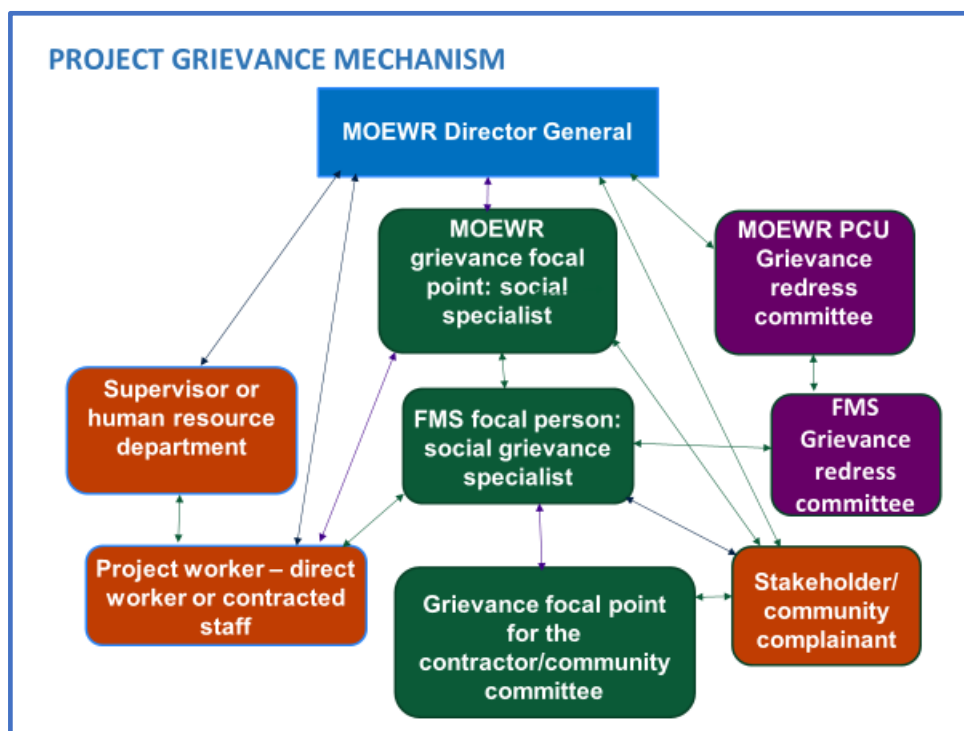


Figure 1: Project grievance mechanism structures

12.4 Grievance Mechanism processes

162. The key GM processes are receiving of grievances by phone, in-person, text, or email to publicized toll free mobile phone lines and email addresses at national, county and community levels. The complaints will then be logged into GM register, then acknowledged within specified timeframe. This will be followed by a review and response provided/remedial measures taken, monitored, and reported. The complainant will then be informed about the outcome. If the complainant is not satisfied by the solutions provided, he/she could escalate it to the next level including World Bank Grievance Redress Services (GRS). The complainant has the right to remain anonymous, and whistle-blower protection for complaints raised in good faith will be assured.

163. The PCU E&S social specialist will carry out training of relevant Government staff involved with the project and contractors. The project management will provide timelines upon which grievances will be addressed. The PAPs will be informed of the availability of judicial recourse and community and traditional dispute settlement mechanisms in addition to the project GM. See figure 2 for the summary of the GM processes. Where possible, alternative dispute resolution (ADR) mechanisms will be supported and used.

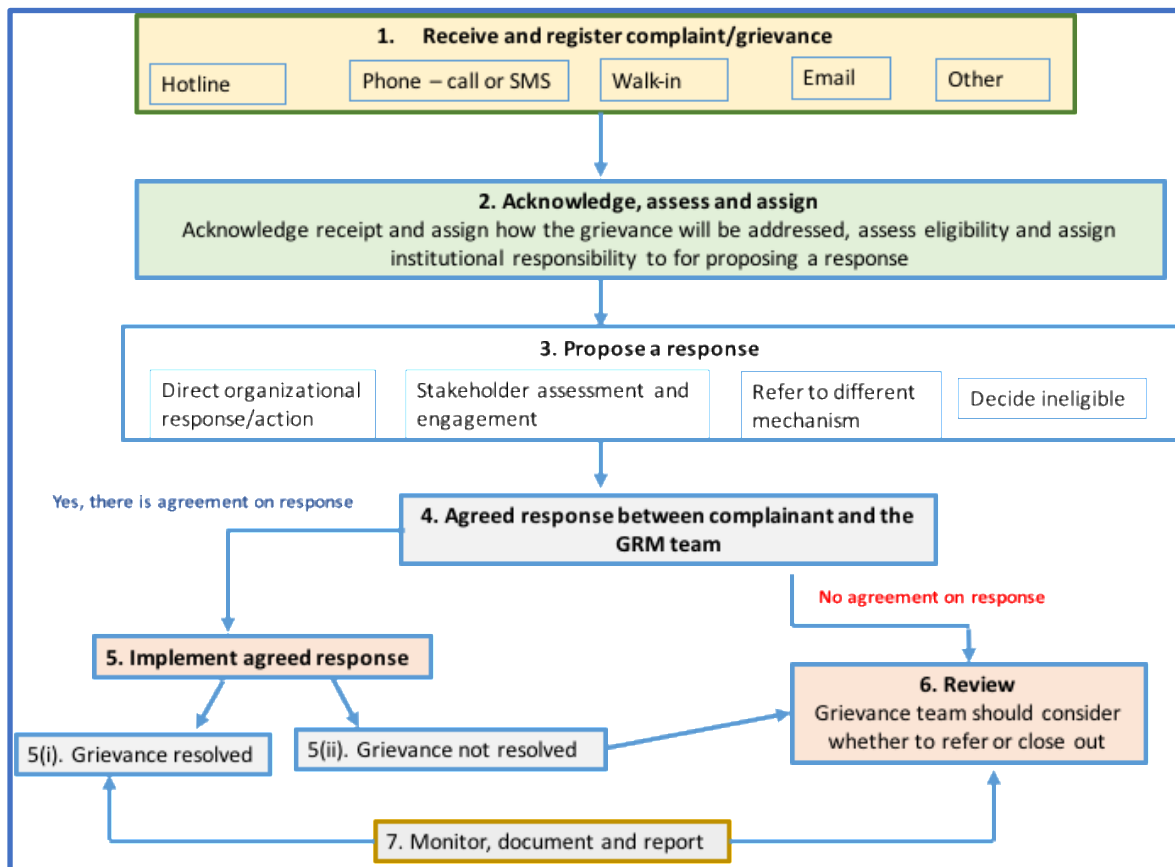


Figure 2: Project grievance mechanism process

12.5 Monitoring and Reporting of GM

164. Overall, MoWSI PCU will be responsible for general monitoring and reporting on GM. Moreover, GM will be monitored at the community level by Ward Committees/Resettlement committee and at national level by PCU. Specifically, the Social Specialist will be responsible for monitoring the availability and implementation of the GM by all implementing agencies. The specialist will include the GM into his/her supervision and monitoring missions to the field and conduct spot checks regarding its implementation and/or where access is difficult the project will recruit an Independent Verifying Agent (IVA) if needed.

165. The ward committees at subproject level will prepare monthly GM report as part of normal project reporting to FMS SPIU. The SPIU will prepare quarterly report to MoWSI PCU. The PCU prepares synthesized quarterly and annual reports to World Bank which contains GM section. The World Bank social specialist will follow up with NPCU any issues related to GM in general including those related to involuntary resettlement. The report will include the number, status, and nature of grievances.

166. The PCU will further provide an excel sheet summary of the feedback and grievances reported, which will be linked to the project's Management Information System (MIS) and to the M&E Results Framework. It will further maintain a documented record of stakeholder engagements, including a description of the stakeholders consulted, and a summary of the feedback/grievances received during community consultations. The PCU will consolidate the GM lessons and share it across the counties during project review and learning sessions.

12.6 GBV/SEAH

167. Confidential, culturally sensitive and survivor centric channels for reporting GBV/SEAH complaints in the resettlement activities will be identified and integrated into the GM (details will be provided in the SEAH Prevention and Response Plan to be prepared after the project becomes effective). The GM will have the following key features on preventing GBV/SEAH: (i) establish quotas for women in

community level GM to facilitate safe reporting; (ii) provide multiple channels to receive complaints (channels to be determined after community consultations); (iii) resolve complaints at the point of service delivery to reduce information and transaction costs, and gender sensitive independent channels for redress; and (iv) communicate GM services at the community level to create GBV/SEAH awareness and enable survivors to file complaints.

12.7 WB's Grievance Redress Service (GRS)

168. Communities and individuals who believe that they are adversely affected by a World Bank supported project, including resettlement issues, may submit complaints to existing project-level GM or the WB's Grievance Redress Service (GRS). The GRS ensures that complaints received are promptly reviewed to address project-related concerns. Project affected communities and individuals may submit their complaint to the WB's independent Inspection Panel which determines whether harm occurred, or could occur, because of WB non-compliance with its policies and procedures. Complaints may be submitted at any time after concerns have been brought directly to the World Bank's attention, and Bank Management has been given an opportunity to respond. Information on how to submit complaints to the World Bank's corporate GRS can be found at <http://www.worldbank.org/en/projects-operations/products-and-services/grievance-redress-service>. Information on how to submit complaints to the World Bank Inspection Panel, can be found at www.inspectionpanel.org.

CHAPTER 13. MONITORING AND EVALUATION OF RPF AND RAPs

13.1 Overview

169. The purpose of M&E of RAPs is to determine effectiveness of implementation including the progress of resettlement activities, the disbursement of compensation, the effectiveness of public consultation and participation activities, and the sustainability of livelihood restoration and development efforts among the PAPs. Monitoring will facilitate timely identification of problems and successes and appropriate adjustment of implementation arrangements.

170. The objective of the monitoring will be to determine:

- If affected people are satisfied with the actual resettlement process;
- If affected people have been paid in full and before implementation of any project that is causing resettlement;
- If affected individuals, households and communities have been able to maintain their pre-project standard of living, and even improve on it;
- If the disadvantaged and vulnerable PAPs have been offered the appropriate assistance as provided for in the RAP; and
- If livelihood restoration has been achieved fully.

13.2 Monitoring

171. Monitoring activities will ensure that all eligible PAPs are adequately compensated and/or relocated. The preparation and implementation of the RAPs will follow the general monitoring structure of E&S risk mitigation measures, as defined in the ESMF. The social specialist in the PCU will be responsible to oversee the design and general implementation of the RAPs. However, the PCU and PIUs M&E specialists will be mainly responsible for data collection and updating of the M&E plan.

13.2.1 Monitoring plan

172. RAP activities will have a monitoring plan that identifies the organizational responsibilities, the methods, and the schedule for monitoring and reporting. The monitoring plan should have the following three components: performance monitoring; impact monitoring; and completion audit.

- i. **Performance Monitoring** is an internal management function carried out regularly, usually quarterly, to measure progress against milestones established in the RAP. The report compares achievements at the assessment date against the targets for the required actions.
- ii. **Impact Monitoring** measures the effectiveness of the RAP and its implementation in meeting the needs of the affected population. This may be conducted internally by PCU/PIUs or an IVA on quarterly basis. Where feasible, affected people should be included in all phases of impact monitoring, including the identification and measurement of baseline indicators.
- iii. **Completion Audit:** This is to determine the extent to which the RAP activities have been implemented. The audit should verify that all inputs committed in the RAP have been delivered and all services provided. The audit should evaluate whether the mitigation actions prescribed in the RAP have had the desired effect. This is usually carried out at the end of project completion after all RAP inputs to evaluate achievements against the baseline conditions of the population before displacement, as established through the census and socioeconomic studies.

173. Monitoring activities will be conducted against the milestones set in the RAPs, including the following items:

- i. PAPs were notified and adequate community consultations held;
- ii. Census of all PAPs and socio-economic survey were conducted;
- iii. RAP was prepared, cleared and disclosed;
- iv. Compensation was carried out in accordance with RAP; and
- v. All grievances have been recorded and addressed in a timely manner.
- vi. Resettlement sites are prepared
- vii. Community infrastructure and services are replaced

viii. Relocation Assistance was completed

174. In addition, the IVA that will be contracted by the PCU will also monitor the implementation of the RPF and RAPs. This activity will be integrated into the IVA's general ToR. Once the IVA is deployed, a monitoring schedule for the RPF/RAPs will be developed jointly with the PCU and PIUs. The PIUs, jointly with county government representatives will facilitate the coordination of information collection, such as surveys and supervise documentation in accordance with the procedures.

13.2.2 Monitoring indicators

175. The possible indicators to measure the performance of the RPF/RAPs:

- i. Collection and storage of census data into a database for comparative analysis;
- ii. Number of PAPs physically or economically displaced by each activity;
- iii. Timing of compensation in relation to commencement of physical construction work.
- iv. Type and amount of compensation paid to each PAP;
- v. PAPs' satisfaction with RAP processes
- vi. Number of people raising grievances, solutions reached, and number of unsolved grievances; and
- vii. All relevant items in the entitlement matrix will be monitored.

176. Monitoring reports will provide the basis for analysis and potential adjustments or changes to the RAPs implementation.

13.3 Annual Audit

177. The audit of RAP implementation will be done annually. The audit will, among other things, cover the following items:

- i. A summary of the performance of each subproject vis-à-vis its RAP;
- ii. A presentation of compliance and progress in the overall implementation of the RAP;
- iii. The audit will:
 - a. verify results of internal monitoring;
 - b. assess whether the subprojects RAPs are comply with ESS5;
 - c. whether the resettlement objectives have been met, specifically, whether livelihood and living standards have been restored or enhanced;
 - d. assess the resettlement efficiency, effectiveness, impact, and sustainability, drawing lessons for future resettlement activities and recommending corrections in the implementation; and
 - e. Ascertain whether the resettlement entitlements were appropriate to meeting the objectives and whether the objectives were suited to PAPs' conditions.

178. Annual audit reports will be prepared by PIU, then submitted to PCU for review and quality assurance and then submitted to the World Bank.

13.4 Socio-Economic monitoring

179. The purpose of socio-economic monitoring is to ensure that PAPs are compensated, and recovery is on time. It will go on as part of the implementation of each subproject RAP, to assess whether compensation has been paid, income has been restored and resettlement objectives are appropriate and delivered. Monitoring of living standards will continue following resettlement. The objective is that the standard of living of the PAPs has been improved, restored, and has not declined.

180. Several indicators would be used to determine the status of affected people (land being used, standard of housing, level of participation in project activities, how many children in school, health standards compared to the period before the project, etc.). The following parameters and verifiable indicators will be used to measure the performance of resettlement and compensation plans:

- i. Length of time from compensation award to payment of compensation to PAPs;
- ii. Timing of compensation in relation to commencement of physical works;

- iii. Communal assets affected and their compensation, if any;
- iv. Number of people raising grievances in relation to project investment;
- v. Number of unresolved grievances;
- vi. Number and type of assistance given to disadvantaged and vulnerable people; and
- vii. Number of livelihoods restored and types of the livelihood restoration.

181. For each subproject with adverse social impacts, a M&E plan of the mitigation measures will be established. As part of the preparation of each RAP, a household survey will be conducted of all PAPs, prior to physical or economic displacement, and this will provide baseline data against which to monitor the performance of the RAP. Following the completion of all expropriation/compensation operations, a household survey will be conducted. The aim of the survey will be to assess the impacts of the mitigation social measures implemented. In addition, the relevant technical teams and PAPs will be consulted to provide their assessments of the impacts of E&S mitigation measures applied.

13.5 Completion Audit

182. An audit will be carried out to determine whether the efforts to restore the living standards of the affected population have been properly designed and executed. This completion audit will verify that all physical inputs earmarked in the RAP have been delivered and all services provided. The audit will also evaluate if the mitigation actions prescribed in the RAP have had the desired effect. The baseline conditions of the affected parties before the relocation will be used as a measure against their socio-economic status after the resettlement. The audit will verify results of internal monitoring and assess whether resettlement objectives have been met irrespective of whether livelihood and living standards have been restored or enhanced.

183. The audit will also assess the resettlement efficiency, effectiveness, impact, and sustainability, drawing lessons for future resettlement activities and recommending corrections in the implementation. Finally, the audit will ascertain whether the resettlement entitlements were appropriate to meeting the objectives and whether the objectives were suited to PAPs conditions. Annual audit reports will be submitted for scrutiny to the World Bank. To be effective, the completion audit will take place after all RAP activities have been completed including development initiatives, but before the completion of financial commitments to the program. This will allow for flexibility to undertake any corrective action that the auditors may recommend before the project is completed.

13.6 Evaluation

184. During evaluations, representatives of the PAPs will participate in the project completion workshops to give their evaluation of the impacts of the project, and specifically the activities under the RAP. They could suggest corrective measures to be implemented retroactively, or to build lessons learnt for future/other activities.

185. After completion of all compensation and resettlement activities, the PAPs will be consulted through a survey, which forms part of the HOAGW4R project M&E activities.

13.7 Frequency of monitoring and evaluation process

- For PAPs that have been physically displaced, post-displacement monitoring will be conducted within six months after their move. Subsequent monitoring will be conducted more regularly to ensure resettlement activities are conducted appropriately and reporting is done on a regular basis.
- In order to document whether PAPs' livelihoods have been fully restored, M&E will take place quarterly after displacement. If the livelihoods of the vast majority of PAPs have been restored, RAP/LRP implementation will be considered complete. The survey will be repeated more regularly (every 6 months) for all PAPs who have not been given the opportunity to restore their livelihood until livelihoods are considered restored.

- Monitoring of market rates for all types of assets will be carried out periodically to ensure that the compensation rates paid by the Project reflect the true replacement value of assets.
- A third-party auditor, with experience in resettlement, will carry out an annual review assessing compliance with commitments contained in subprojects' specific RAPs, World Bank requirements, and this RPF.

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ANNEXES

ANNEX 1: SCREENING CHECKLIST

Sub project: _____

Location: _____

From focus group discussions (FGDs) or key informant interviews (KIIs) with people with different interests and needs regarding the proposed investment e.g., women, youth, people with disabilities, minority groups, livestock keepers, crop farmers, seasonal users e.g., nomadic pastoralists.

The purpose of the checklist is to flag possible environmental and social risks and impacts to explore in the ESMP and other ESF instruments. It should be done as part of ground truthing based on visual observation and key informant interviews with people with different interests and needs regarding the proposed sub-projects, e.g., elders, local government officials, women, youth, people with disabilities, minority groups, livestock keepers, crop farmers, seasonal users, e.g., pastoralists. Those people consulted should be mentioned at the end of the checklist.

Will the project?	Yes	No	Explanation
Affect downstream water flows			
Require clearing of trees, pasture/browse			
Land ownership is clear (Private or Government)			
Is on or near private land			
Require demolition of existing structures			
Require large volumes of construction materials (e.g., gravel, stone, water, timber, firewood)?			
Use water during or after construction, which will reduce the local availability of groundwater and surface water?			
Affect the quantity or quality of surface waters (e.g., rivers, streams, wetlands), or groundwater (e.g. wells, reservoirs)?			
Be located within or nearby environmentally sensitive areas (e.g., intact natural forests, mangroves, wetlands) or threatened species?			
Lead to soil degradation, soil erosion in the area?			
Create waste that could adversely affect local soils, vegetation, rivers and streams or groundwater?			
Create pools of water that provide breeding grounds for disease vectors (for example malaria or bilharzia)?			
Involve significant excavations, demolition, and movement of earth, flooding, or other environmental changes?			
Be located in or near an area where there is an important historical, archaeological, or cultural heritage site?			

Will the project?	Yes	No	Explanation
Displace people or structures or restrict people's access to crops, pasture, fisheries, forests, or cultural resources, whether on a permanent or temporary basis?			
Result in human health or safety risks during construction or later?			
Involve inward migration of people from outside the area for use of services or other purposes?			
Increase tension/ conflict or disputes among or within communities?			
Require sharing or regulation of use between different groups or communities?			
Result in a significant change/loss in livelihood of individuals?			
Adversely affect the livelihoods and /or the rights of women?			
Cause increased settlement or degradation of surrounding areas?			
Disposal of bush clearance residue may cause spreading of invasive species?			
Will the project result importation of seeds require the use of imported seeds?			
Introduce a non-native animal or plant species?			
Maintenance and management responsibilities have not been defined and accepted by users/local government?			
Any limitations for the livestock movement crossing gabions and rehabilitated rangelands			
Boundaries of the water sources are clearly demarcated to a void creation of adjacent settlements			
Water source fenced/protected to avoid risks and contamination			
Will result in Transmission diseases from region to region or boundaries			
Result in transmission of zoonotic disease			
Result in Migration among pastoral communities and lead to overgrazing of pastureland			
Will the project require use and application of inorganic fertilizers			
Will the project require use and application of pesticide			
Will the project require use and applications of fumigation			
Will the project require use and applications of herbicide			
Is the sub-project located within or in the vicinity of any known cultural heritage sites?			

Note: The exclusion list of the sub-projects. If any of these parameters are "Yes", the sub-project is excluded from financing under the project.

Based on the above checklist, what are conclusions and recommendations on:

- 1. Proposed project is eligible for financing under the project criteria.**

.....

2. Proposed Environmental and Social Risk Ratings (High, Substantial, Moderate or Low). Provide Justifications.

.....

3. Proposed E&S Management Plans/ Instruments (i.e., ESMP, ESIA, Summary safeguards report (for social issues) , Voluntary land donation form, Seed Certification form, Pest management plan)

.....

4. Who was consulted in the completion of the checklist? Provide list.

Reviewed and approved by			
Environment Specialist Name:		Social Specialist Name:	
Date	Signature	Date	Signature

ANNEX 2: SAMPLE ENTITLEMENT MATRIX

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
Agricultural land	Land holding affected	Farmer/ title holder	Cash compensation for affected land equivalent to replacement value, considering market values for land.
	Land remains economically viable.	Community land	Cash compensation for affected land equivalent to replacement value considering 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 - if the person cannot farm anymore
	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 equal to replacement cost. Community land – land for land replacement where feasible or compensation in cash Land for land replacement/cash 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 + livelihood rehabilitation assistance) Relocation assistance (costs of shifting + assistance in re-establishing economic trees + livelihood rehabilitation assistance)
			Tenant/Lease holder
Land users	Impact on livelihood	Land less, encroachers	Compensation for lost incomes during the period of transition to restore livelihood and ensure they will not be worse off as a result of the investments' activities.
Commercial Land	Land used for business partially affected Limited loss	Title holder/ business owner	Cash compensation for affected land Compensation cost for lost incomes based on monthly records/tax records for previous year (or tax records from comparable business or estimates where such records do not exist) to cater for period of transition.
		Business owner is lease holder	Compensation for lost incomes during the period of transition to restore livelihood and ensure they will not be worse off as a result of the investments' activities.
	Assets used for business severely affected If partially affected, the remaining assets become	Title holder/busin ess 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.

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
	insufficient for business purposes		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)
		Businessperson 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 re-establish the business.
Residential Land	Land used for residence partially affected, limited loss Remaining land viable for present use.	Title holder	Cash compensation for affected land
		Rental/lease holder	Cash compensation equivalent to the estimated net loss to the owner.
	Land and assets used for residence severely affected Remaining area insufficient for continuing use or become smaller than minimally accepted under zoning laws	Title holder	Land for land replacement or compensation in cash according to PAP's choice, based on the replacement cost. 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)
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)	
		Owner	Cash compensation for affected building and other fixed assets

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
Buildings and structures	Structures are partially affected		Cash assistance to cover costs of restoration of the remaining structure
	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 equal to replacement cost, 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 preferably in the community of residence through LRC Alternatively, assistance to find accommodation in rental housing or in a squatter settlement scheme, if available)
		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 if possible.
Standing crops	Crops affected by land acquisition or temporary acquisition or easement	PAP (whether owner, tenant, or squatter)	Where possible allow for harvesting. Cash compensation equivalent to average of last 3 years market value for cash crops lost.
Trees	Trees lost	Title holder	Cash compensation based on type, age and productive value of affected trees plus

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
Loss of access to grazing	On livelihood	Households undertaking grazing activities in the affected areas.	<p><i>Alternate Arrangements:</i> Encourage adoption of zero-grazing techniques,</p> <p><i>Economic rehabilitation assistance:</i> Provide assistance to facilitate this transition... For example, assistance with and payment for construction of new zero-grazing structures on alternative lands; provision of buffer lands for growth of cattle fodder; assistance with cultivation of fodder, provision of cattle fodder for lag period until cultivated cattle fodder becomes available.</p> <p>Ensure that the livestock owners have access to land for grazing or ways to sustain their livelihoods.</p>
Loss of access to water sources	Loss of access to water for household use, for household plots, etc.	Affected households	Replace water access: Provide alternate access to water sources in the interim period. Ensure that the investments' design take into consideration different use and need for water and accommodate the users accordingly.
Loss of communal properties such as burial grounds and places of worship, community centers, and social buildings	Loss of access to these sites, temporarily or permanently, loss of investment made.	Communities affected	Consultation: Undertake consultation with affected households to determine appropriate arrangements and compensation if suitable. Replacing the social building such as schools and dispensaries.
Loss of livelihoods	Loss of means of livelihoods such as small production, such as collection of forest product, fishery, bee keeping, small dependent jobs on affected assets, such as sand, forest, inaccessible water bodies and forest	Communities engaging in non-farming livelihoods such as hunters and gatherers, fisher folk, beekeeper.	To restore peoples income earning opportunities after land acquisition and resettlement , OP 4.12 specifies that displaced persons are provided with development assistance in addition to compensation measures such as land preparation, credit facilities, training or job opportunities.
Temporary Acquisition	Temporary acquisition	PAP (whether owner, tenant, or squatter)	Cash compensation for any assets affected (e. g. boundary wall demolished; trees removed)

ANNEX 3: SAMPLE RESETTLEMENT SCREENING FORM

Project name:

Project Location

(Include map/sketch): (e.g. Sub County, Division, Location, and Village etc.).

Type of activity: *(e.g. new construction, rehabilitation, periodic maintenance)*

Proposed Date of Commencement of Work:

Technical

Drawing/Specifications

Reviewed:*(circle answer): Yes, No*

This report is to be kept short and concise.

1. Site Selection:

When considering the location of a project, rate the sensitivity of the proposed site in the following table according to the given criteria. Higher ratings do not necessarily mean that a site is unsuitable. They do indicate a real risk of causing undesirable adverse environmental and social effects, and that more substantial environmental and/or social planning may be required to adequately avoid, mitigate, or manage potential effects.

Issues	Site Sensitivity			Comments
	Low	Medium	High	
Involuntary Resettlement	Low population density; dispersed population; legal tenure is well-defined.	Medium population density; mixed ownership and land tenure.	High population density; major towns and villages; low income families and/or illegal ownership of land; communal Properties.	

2. Checklist questions:

Physical data:	Yes/No answers and bullet lists preferred except where descriptive detail is essential.
Site area in ha	
Extension of or changes to existing alignment	
Any existing property to transfer to subproject	
Any plans for new construction	

Refer to project application for this information.

Land and resettlement:	Yes/No answers and bullet lists preferred except where descriptive detail is essential.
Will the project involve loss of land and other resources?	
Structures observed? Activities observed? People on site? Will the project result into temporary or permanent loss of crops, household infrastructure like shelter, granaries or latrines?	
What is the possibility of voluntarily selling the land to the proponent? What is the likelihood of land purchase for the subproject?	
How will the proponent go about land purchase?	
what are the current land uses	
Who will monitor actual payments?	

Refer to the Resettlement Policy Framework.

Actions:	
List outstanding actions to be cleared before project approval and implementation.	
Approval/rejection	Yes/No answers and bullet lists preferred except where descriptive detail is essential.

Documentation on WB/WS on para 63.

Recommendations:

Requires a RAP to be submitted on date: _____

Does not require further studies

Reviewer: _____

Name: _____

Signature: _____

Date: _____

ANNEX 4: OUTLINE OF A RAP

1. *Description of the project*
2. *Potential impacts*
3. *Objectives of the resettlement program*
4. *Census survey and baseline socioeconomic studies*
5. *Legal framework*
6. *Institutional framework*
7. *Eligibility*
8. *Valuation of and compensation for losses*
9. *Community participation*
10. *Implementation schedule*
11. *Costs and budget*
12. *Grievance redress mechanism*
13. *Monitoring and evaluation*
14. *Arrangements for adaptive management*

Additional planning requirements where resettlement involves physical displacement

When project circumstances require the physical relocation of residents (or businesses), resettlement plans require additional information and planning elements. Additional requirements include:

1. *Transitional assistance*
2. *Site selection, site preparation, and relocation*
3. *Housing, infrastructure, and social services*
4. *Environmental protection and management*
5. *Consultation on relocation*

Additional planning requirements where resettlement involves economic displacement:

1. *Direct land replacement.*
2. *Loss of access to land or resources.*
3. *Support for alternative livelihoods*
4. *Consideration of economic development opportunities*
5. *Transitional support*

ANNEX 5: COMMUNITY LAND RESOLUTION AND CONSENT FORM

ITEM	DESCRIPTION
Project name	
Project Location:	
Name of Sub-project	
GPS coordinates of land area	
Date	

Please attach the community minutes and summary safeguards report explaining how the requirements for voluntary land donation for this sub-project have been met.

TERMS OF THE AGREEMENT

1. As discussed in our community minute onto which all residents and regular users of the project site (specify) were invited. We the nominated representatives at that meeting confirm that the following issues were discussed, and the residents and regular users of this land are in unanimous agreement.
2. That , shall be site of the proposed and that:
3. We all are aware that the land set aside for the sub-project is community land and no one is claiming individual ownership because it belongs to all of us, and no alternative claims will be made later on the land.
4. We have all agreed unanimously that the project implementation should continue.
5. We will all allow other neighbouring and cross-border communities access to the project site as agreed between elders of represented communities.
6. We all shall strive to peacefully resolve any conflicts with other communities concerning the project.
7. We would strive to peacefully co-exist and resolve any conflict arising out of the sub-project facility following due process provided by local laws
8. The land to be donated was identified in consultation with all residents and users of the land.
9. We all understand the likely impacts of proposed activities on donated land.
10. We all understand that the community could have refused this sub-project.
11. We all agreed to this sub-project and donation of the land without coercion, manipulation, or any form of pressure on the part of public or traditional authorities.
12. We all agreed that we do not require any monetary or non-monetary benefits or incentives as a condition for the donation.
13. Donation of land will not adversely affect the livelihoods of occupiers and users of the land.
14. If any structure will be moved or any access to land be limited because of the sub-project, support will be provided to the individuals so that their livelihoods are not adversely affected.
15. The land is free of encumbrances or encroachment and is not claimed by any individual and its ownership is not contested.

We have been designated by the community of and represent all groups using this land (include elders, women, youth, other users, minority groups):

Confirm the above information to be true and that we have resolved to abide by ALL terms of this agreement. (Please attach minutes of the community meeting including the signed attendance sheet and photos of the meeting).

S/No.	Name	Village/Location	ID/No	Phone number	Date	Signature
1.						
2.						
3.						
4.						
5.						

Agreed/ Witnessed on this Day of in the Year.....: by:

1. Area Elder/CLMT Chairman

Name	ID/No.	Phone Number	Date	Signature

2. Women's group leader/representative

Name	ID/No.	Phone number	Date	Signature

3. Ward Administrator

Name	ID/No./cell number	Phone number	Date	Signature

4. Project focal person

Name	ID/No./	Phone number	Date	Signature

5. Project Manager

Name	ID/No.	Phone number	Date	Signature & R/Stamp

ANNEX 6: LAND AGREEMENT FORM

Land Agreement Form

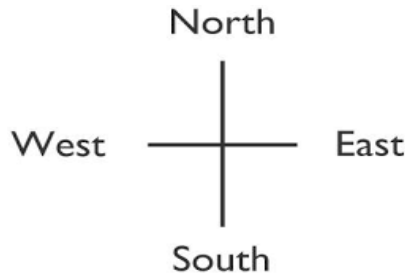
Date: _____

Subject: Donating Land for Public Use

After consideration of the letter dated: _____ and titled from the as the owners of the land located in GPS:

_____ in the village of _____, we hereby testify that we are donating our land to thevillage ofDistrict for Public use only (i.e., construction of).

The Measurements of land that we are donating is as follows:



Hence, this notary serves as a legal document affirming that we have donated the above stated land for public use, which will be used for for the**project** being implemented bygovernment and funded by the World Bank.

Undersigned are names of deed owners in sound mind.

Name _____

ID. NO.....

Sign. : _____

Tel. No:_____

Name _____

ID NO.

Sign: _____

Tel. No:;.....

Acknowledgment

I, _____, chairperson of theVillage Development Committee affirm in this legal document that we accept the land donated for public use from the above signed owner(s) of the land located in

_____ with the measurements stated above.

Undersigned is the name of the chairperson of the village in sound mind.

Name _____

ID. NO.

sign: _____

Date: _____

Witnesses

Name _____

ID.NO.....

Sign: _____

Tel: _____

Date: _____

Name _____

ID.NO.....

Sign: _____

Tel: _____

Date: _____

The notary office _____ is testimony that we have witnessed this agreement for which all parties were present and have the legal enforcement that will take effect as of date _____.

Undersigned is the name of the notary officer in sound mind

Name _____

ID.NO.....

Sign: _____

Tel: _____

Date: _____

Requirements for voluntary land donation

1. The owner of the land to be donated should not be forced if they do not agree with the donation.
2. The impacts must be minor, that is, involve no more than 10 percent of the area of any holding and require no physical relocation.
3. The land should meet technical project criteria as identified by the project engineers
4. The land in question must be free of squatters, encroachers, or other claims or encumbrances.
5. Verification of the voluntary nature of land donations must be obtained from each person donating land.
6. Grievance mechanisms must be available.
7. If land donated is not used for the agreed purpose, it must be returned. Otherwise, the donor cannot reclaim land donated and sign an official letter regarding that matter

ANNEX 7: MOU WITH THE COMMUNITY ON SUB-PROJECT AND WATER SHARING AGREEMENT

Memorandum of Understanding

Between Project Implementation Unit
and

_____ Community Development Committee

This is an agreement between Project Implementation Unit (PCU) for the project, hereinafter called Party A and “_____ **Ward Development Committee**”, hereinafter called Party B. The PIU is stationed at the Puntland Ministry of Water Sanitation and Irrigation (MoWSI) in _____ County and represent all government authorities implementing the project. The **Ward Development Committee** represents all community members including children, elders, religious leaders, youth, women, men, farmers, minority groups, nomadic pastoralists, PWDs, IDPs, etc.

Purpose

The purpose of this MoU is to clearly identify the roles and responsibilities of each party as they relate to the project implementation and sustainability.

The parties (PCU and **Ward Development Committee**) will work together to provide the resources necessary to implement and sustain this project. Both Parties will ensure that program activities are conducted in compliance with all applicable national laws and World Bank ESF. Both parties understand that the project components as establishment and rehabilitation of boreholes, dams, sand storage dams, area infiltration interventions, rehabilitation of degraded rangelands and institutional strengthening. These interventions will directly provide benefits in the form of access to improved water sources for multiple uses (domestic, livestock, agriculture, and horticulture); agricultural extension services (livestock and crops); improved livelihood resilience; and adaptive know-how.

Roles and responsibilities between two parties

Party A (PCU team) responsibilities under this MoU

1. Facilitation of the investment and maintaining a unified Results Framework for the project.
2. Ensure community engagement inclusivity and participation for the project implementation and sustainability.
3. Responsible for supervision and collaboration with the service providers to ensure they closely working with community.
4. Party A (PIU) to ensure that dam entry, and dam related structures such as animal troughs are downstream the dam to prevent contamination and prevent rangelands degradation.

Part B **Ward Development Committee** responsibilities under this MoU

1. Leading community participation, project sustainability, use and maintenance for example Provide necessary support such as land, technical experts in the community.
2. The community is responsible for bringing/formulating inclusive village development committees respecting with existing system.
3. Community organization meetings, awareness, documenting and report general grievances arising from project interventions and bring them to the attention of the project’s Grievance Redress Mechanism.

4. Ensure that no new settlements are established roughly _____ km upstream (watershed) to prevent pollution (if the area is already not settled).
5. Appoint a water management committee led by the **Ward Development Committee** whose members should be permanent settlers that do not migrate with the seasons. The water management committee to clean the dam area (or desilting) before the rainy seasons (where necessary).
6. Together with the water management committee to develop by-laws covering but not limited to the following aspects:

Collecting water user fee [committees to set the price in consultation with the general community]
 Prioritizing human consumption followed by livestock and crop production respectively.
 Time lots in the dry seasons (Feb-Mar and Jul-Sep). Permanent residents could drink from 4.00pm – 10.00pm while pastoralists (coming from out of the settlement) could drink from morning to afternoon.

During a crisis, irrigation should be stopped to allow the survival of humans and livestock.
 Ensuring water access for all, irrespective of the area of origin. All groups (immigrants, minority groups and settlement pastoralists) have equal rights in consumption amounts.
 Water fetching to be queuing to be respected on a first come first served basis.

To define fines and punishment for all breaching the by-laws: _____ [committee to decide on what to charge].

On behalf of the Project

Project Coordinator

Name: _____ Sign: _____

Email: _____ Tel: _____

On behalf of the Community

Name: _____ Sign: _____

Role: _____ Tel: _____

Name: _____ Sign: _____

Role: _____ Tel: _____

ANNEX 8: GRIEVANCE RECORD FORM

Grievance Record	
Name of complainant:	Telephone:
Date complaint filed:	Nature of grievance:
Name of person taking complaint: Position: _____ Signature: _____	
Review/Resolutions	
Date of conciliation session:	Was complainant present?
Nature of complaint:	
Was field verification of complaint conducted:	Finding of field investigations:
Was agreement on the issue reached? If agreement not reached provide points of disagreement:	If agreement reached provide details;
Mediator Name:	
Complainant Name:	Signature: Date:
Sub-project team member name:	Signature: Date:

ANNEX 9: SAMPLE GRIEVANCE LOG FORM

No.	Name of Complainant	Gender	Brief Description of Grievance	Date of Receipt	Grievance Status and Brief Description of Response	Date of Response	Remarks

ANNEX 10: MINUTES OF A CONSULTATION MEETING WITH HoAGW4RP COUNTY STAKEHOLDERS AT SAROVA PANAFRIC HOTEL ON NOVEMBER 12, 2021

COUNTY EXPERIENCES AND RECOMMENDATIONS ON THE FOLLOWING SOCIAL AND ENVIRONMENTAL ASPECTS OF GROUNDWATER RESOURCE URILIZATION AND MANAGEMENT	
TOPIC	COUNTY RESPONSES
<p>1. Ensuring inclusive consultations with residents and users of water on siting and design of water infrastructure – including women, minorities and nomadic pastoralists</p>	<p>Mandera – through public <i>barazas</i> and every village has their own structure with representatives from different groups. When? During the needs assessment, after feasibility studies and towards Operation and Maintenance (O/M)</p>
	<p>Garissa – 3 simple quotes –</p> <ol style="list-style-type: none"> 1. Tell me and I will know 2. Teach me and I will remember. 3. Involve me and I will understand <p>This way is the best way. Through FGDs, local leaders, chiefs etc. at the Ward and sub- county level as they have representatives from the villages and ward committees.</p>
	<p>Turkana – the Turkana people are usually willing to express their opinion. Women are the ones that mostly participate in water activities. They do not want clustered water points, and this is to consume their pasture – they want to conserve their pasture and therefore there are no hindrances to access minority community areas. Consultations should begin from the initial stages from which they will actively participate in all stages. This is easily organized through the administrators from the ward admin, sub- county etc. especially the ward level where they can be gathered in a venue and provided with refreshments and transport, and they will be willing to participate. Wajir – We engage the locals, Chiefs, minority groups, disabled - especially through the elders.</p>
	<p>Marsabit – this is necessary and should be the first activity, once you understand and respect the culture it becomes easy. Marsabit is composed of the Borana, Rendille, Samburu, Turkana, Burji etc. and they use the Elder system, you can use the wards, chiefs but elders are a must. There are minorities but are recognized and are brought together through the Turkana Cultural festival.</p>
<p>2. Promoting awareness and appreciation of the limitations of ground water resources and the need to conserve</p>	<p>Garissa – water is known as a valuable and limited resource. We promote inclusivity from the top to bottom – this is what should be promoted to avoid conflict. Communities are aware of the limited nature of it and they are promoting the purchase of storage such as tanks to avoid wastage from fetching from taps. GARAWASCO WSP promotes prepaid meters to promote equitable access to water.</p>

<p>and promote equitable and sustainable use;</p>	<p>Mandera– from the groundwater survey, the communities are usually on board, and they move around with the groundwater surveyors and are aware of the levels of water. They agree on the use of the boreholes for different users e.g., the community, livestock etc. In terms of structure, an engineering assistant is in charge at ward level and works with communities to manage water at the ward level. This way, sustainability is enhanced, and knowledge of breakdowns is communicated effectively. The people recognize the finite nature of water resources.</p>
	<p>Marsabit – are mostly unaware of the finite nature of groundwater, we need to sensitize the community on the finite issue, and this should be included on this Project.</p>
	<p>Turkana – are more about the supply of the resource to the users and are not very concerned about the finite nature.</p>
<p>3. Resolving and preventing water conflicts</p>	<p>Garissa – There is a Conflict Resolution Mechanism at Village / ward level. There are Peace Elders at every village who promote peace and resolve conflicts. The community is usually aware of the various components.</p>
	<p>Mandera – conflict is cross-cutting, here all stakeholders at sub-county and ward level play a part/ role in conflict resolution including the administration and committees.</p>
	<p>Marsabit – In the last 10 years more boreholes have been built, most conflict is about grazing. Peace committees and local government help to resolve them. Usually, care is taken not to put a project in such conflict prone areas.</p>
	<p>Wajir – make sure the committees are incorporated in the management of water resources.</p>
	<p>Turkana – conflict occurs mostly along the border. The community is usually quick to relay the info to the various relevant persons etc.</p>
<p>4. Trusted and functioning grievance mechanisms to improve project implementation</p>	<p>Marsabit - Grievances are mostly channeled to the politicians.</p>
	<p>Marsabit - Grievances are mostly channeled to the politicians.</p>
	<p>Turkana - They will resort to the political leadership when not satisfied, involves the local leadership.</p>
	<p>Garissa – Produced some booklets to record the grievances but didn't work because proper consultation was not done. This maybe should be</p>

	relooked at. The Chief Officers, Directors, Chiefs, community usually try to solve the grievances
5. How can sustainable management of water points by community structures be promoted? Could a social accountability and cohesion committee (as mentioned in the SEP) help ensure this? How could this be established and how would it relate to the WRUAs/county?	Garissa – Still have the WRUAs – we should operationalize the Garissa Rural Water corporation (GARAWASCO) and it should work to address inclusivity issues and grievances
	Mandera – have a committee formed by the Dept of water services, operator and 2 other people. Enhance existing structures - assess the local structures and improve them. Had a bad experience with the WRUAs, lets utilize the models that exist e.g the water companies etc also have committees that work with the users. Don't put management of the water into the hands of the community.
	Marsabit – still struggling with the WRUA, prefer the Mandera model. Marsabit solarized over 40% of the boreholes yet the tariffs for water have not come down and this is not sustainable.
	Turkana – have had a bad experience with the WRUAs, give licenses to entities that can supply the water e.g., WSPs, whose contracts can be revoked.
6. Experiences of gazettement/ protection of recharge areas?	Turkana – not an issue if the land is community-owned. However, in areas where land is individually owned like where the Napuu aquifer is situated will likely pose a challenge.

ANNEX 11: MINUTES OF STAKEHOLDER CONSULTATION MEETING HELD VIRTUALLY ON FEBRUARY 1, 2022

MINUTES OF THE VIRTUAL STAKEHOLDERS' CONSULTATION MEETING ON THE ENVIRONMENTAL AND SOCIAL SAFEGUARDS INSTRUMENTS FOR THE HORN OF AFRICA - KENYA GROUNDWATER FOR RESILIENCE PROJECT WHICH TOOK PLACE ON 1ST FEBRUARY 2022 FROM 9.00AM -12.30PM

Participants Present:

See attached list at the end of the document

Agenda

1. Introduction and registration of participants
2. Opening remarks from PCU coordinator -MoWSI
3. Presentation of E&S documents - RPF, SEP, and ESMF
4. Plenary
5. Closing remarks

MIN 1: Introductions and registration of participants

The meeting started at 9.00 with a word of prayer from Phoebe Orina from WRA. The facilitator, Ms. Agatha Njuguna from WRA welcomed participants and requested everyone to introduce themselves and register their names, designations and organizations at the chat box so that they can be captured for documentation.

MIN 2: Opening remarks from the PCU Coordinator

The PCU coordinator Mr. Wotuku gave his opening remarks by making a presentation on the background of the Horn of Africa Groundwater for Resilience (HoAGW4R) Project, the scope and budget of the project. He also mentioned that the meeting that was taking place was critical in ensuring that the project is disclosed to stakeholders but also that the stakeholders are consulted on the various environmental and social safeguards issues which are likely to arise during project implementation. Stakeholders were urged to give their comments during plenary to improve the documents.

MIN 3: Presentation of E&S documents

1. Resettlement Policy Framework

Edward Ontita, a consultant for the Ministry of Water, Sanitation and Irrigation in the development of the Resettlement Policy Framework (RPF) and Stakeholders Engagement Plan (SEP) made his presentations to the stakeholders. He highlighted the potential sub-projects which were likely to trigger resettlement impacts in the project. He emphasized that efforts will be made to avoid relocation of people in the project areas and if unavoidable, minimize any such impact. The consultant highlighted the processes which shall be followed to ensure resettlement is undertaken as per the World Banks' Environmental and Social Standards, and national policies and laws governing land and resettlement processes in Kenya. All these will be done having in mind the vulnerable and marginalized populations in the affected areas.

2. Stakeholders Engagement Plan

Edward Ontita also presented the SEP to the stakeholders and highlighted that stakeholder's engagement in the project was critical in ensuring project success. It was a requirement by the Bank and National Law that all project affected parties, those with different levels of influence and power, as well as the vulnerable and disadvantaged were to be engaged in the project. Therefore, stakeholder engagement will be all inclusive to enhance project ownership and utilization once complete. This then meant that stakeholders mapping should be done comprehensively to ensure none of the stakeholders is left out.

3. Environmental and Social Management Framework

Mr. Liya Mango, a consultant engaged in development of the Environmental and Social Management Framework (ESMF) made his presentation to the stakeholders. He highlighted that the main objective of

the ESMF was to provide a framework for effective management of environmental and social (E&S) risks in the proposed HOAGW4R project. It sought to both enhance (E&S) development benefits of the project and mitigate any potential adverse impacts, in line with Government of Kenya (GoK) and World Bank (WB) Environment and Social Standards (ESSs) including the WB Group Environment, Health and Safety (EHS) Guidelines.

Comments/Discussion

RPF & SEP

1. **Question (Qn):** Ms. Hawa Dekow from Lagha Bulale WRUA in Garissa County requested for a clarification on compensation because the land in Garissa is mostly community land.

Response (Resp): Prof. Ontita answered that the Community Land Act, 2016 governs community land and that those would be complied to during compensation in case it happens.

2. **Qn:** Mr. Joe Ondulo from National Water Harvesting and Storage Authority was concerned that vulnerable persons' needs during displacement and compensation especially the elderly should be carefully considered.

Resp: Prof. Ontita responded that the RAP considers the elderly as part of the vulnerable population and thus in cases where they have affected property and requires construction, they should not just be given funds but construction of the same property to a similar standard shall be considered because they might not have the energy to re-establish themselves.

3. **Qn:** Ms. Phoebe Orina from WRA asked how land where pastoralists and their families move to during drought will be treated incase this is considered for protection and conservation as aquifer recharge sites or other use.

Resp: Prof. Ontita answered that there is no free land. Land tenure in Northern Kenya is organized around community land rights and this will be treated as community land and processes and procedures for acquisition of community land will be followed as per the Community Land Act, 2016.

4. **Qn:** Mr. Hussein Guyo WRA Marsabit Sub Basin Area Manager was concerned that the Marsabit areas covered by the Sub-basin is over 88,000 sq km and communities are majorly homogenous however, the problems arise on the borderlines because of frequent conflicts in these areas. How will the project deal with projects which may lie on the borderlines e.g., drilling of a new or rehabilitation of a borehole in these areas?

Resp: Prof Ontita responded by saying that communities know their territories and boundaries. The project should therefore consider planning well with the communities to understand the structure and dynamics of the communities to reduce or mitigate conflicts by siting projects appropriately and in line with community interests.

5. **Qn:** Mr. Abdullahi, a WRUA member wanted to know where they would need to apply their part of project funds from.

Resp: Mr. Willis Ombai from WSTF clarified that funding in this program is specific to the roles and responsibilities conferred to the two institutions under the project. Funds will go to both WRA and WSTF where Sub-component 1A will be under WRA and this is where WRUAs come in for mobilization of new WRUAs, SCMP development and implementation with a specific focus on ground water recharge,

conservation and management. Funds to WSTF are under sub-component 1B where they will work with counties for rehabilitation and drilling of boreholes.

6. **Qn:** Ms. Margaret from the Transboundary Water department of MoWSI asked how dynamics for management of aquifers which are being recharged from a different country and what would be necessary for consideration in management of these aquifers?

Resp: Madam Agatha from WRA responded that an AADMP will be done to map out the aquifers and aquifer management and development plans. There is already a declaration through IGAD by Kenya on the transboundary aquifers that the number of boreholes to be drilled are not likely to cause any negative impact on the groundwater. There will be negotiations held between any such countries and engage stakeholders through IGAD.

7. **Qn:** Eng. Rose Nyikuri from WSTF asked that when communities will be resettled in new areas there are affected livelihoods and community owned water infrastructure e.g., water pans, irrigation systems, boreholes etc. how will these be considered in the new areas?

Resp: Prof. Ontita responded that the RPF has currently considered and provided for compensation for assets such as land and buildings, trees, businesses, crops etc. This only provide a framework for land acquisition and once the AADMPs have been done sub-project specific RAPs shall be developed for each area and shall look beyond land, livelihood and infrastructure which shall include community owned infrastructure such as water pans, schools, irrigation infrastructure. The RAPs will look at what, who, how?

Mr. Benedict Omondi from KFS mentioned that KFS staff will assist the project in understanding the inventory of forest materials for compensation purposes as explained by Mr. Ontita. This will ensure that the affected persons are properly and adequately compensated.

8. **Qn:** Mr. Ahmed of Buriya of WRUA commented that the SEP and RPF are well done. He however asked that since the SEP and RPF are well documented are these the outcomes of the EIAs? He also noted that since aquifers cover vast areas and where such resources exist conflicts often arise. How is conflict management catered for in the project?

Resp: Prof. Ontita responded by stating that currently, project entry points are county governments and tools for conflict management are stakeholders' engagement so that we are able to know the triggers and depending on our engagement on water conflict management. The projects shall also a look at lessons learnt from implementation of similar projects. Grievance mechanisms also constitute further avenues for conflict management.

9. **Qn:** Mr. Adan Gollo Accountant WRA Mandera/Wajir Sub-Basin area asked if the projects will be exempted from Capital Gains Tax.

Resp: This question will be handled with treasury and a response provided later.

ESMF

10. **Qn:** Ann Nabangala climate change program officer from WSTF asked how conflicts will be handled on infrastructure on transboundary aquifers.

Resp: Mr. Liya responded that legal and policy issues will be dealt with stakeholders and appropriate causes of action taken. Project specific EIAs will be developed with mitigation measures for conflicts in these projects proposed.

11. Comment: Mr. Hussein Guyo WRA Marsabit Sub Basin Area Manager gave a comment that human wildlife conflicts should also be considered in the ESMF. He went ahead and suggested that water troughs or water pans for elephants can be developed far away from those of livestock. This would allow wildlife to access water and reduce conflicts.

12. Comment: Ms. Hilda Cheyech Community Engagement officer from RVBA gave a comment in the discussion that in order to improve sustainability of projects and infrastructure small groups of communities are selected to manage the infrastructure and would then report back to the WRUAs or WUAs.

13. Qn: Mr. David Mumo WRA Rift Valley Basin Area Coordinator asked that where grazing areas, where most likely high yielding boreholes are and that is where settlements are likely to be. How do we balance aquifer conservation, migratory routes, grazing areas among other issues in this project?

Resp: Agatha from WRA responded by saying that an overlay of these factors will be done together with the AADMPs in order to take care of sanitation aspects which come as a result of settlements in these areas, therefore the project might consider removing settlements from these conservation areas for example. Sub-project specific ESIA's will be done to address such issues in consultation with stakeholders to come up with the best approach.

14. Qn: Ms. Mirriam asked how we shall ensure ESMPs are implemented to curb impacts e.g., pollution arising from the projects.

Resp: Mr. Liya responded that monitoring plans are part of the ESMPs to ensure the plans are implemented.

Summary of E&S issues and mitigation measures

	Issues Raised	How will be addressed in project
1.	Compensation issues affecting of community land	laws governing community land would be complied with during compensation in case it happens.
2.	Vulnerable persons' needs during displacement and compensation especially the elderly should be carefully considered.	The RAP considers the elderly as part of the vulnerable population and thus in cases where they have affected property and requires construction, they should not just be given funds but construction of the same property to a similar standard shall be considered because they might not have the energy to re-establish themselves.
3	How land where pastoralists and their families move to during drought will be treated incase this is considered for protection and conservation	This will be treated as community land and processes and procedures for acquisition of community land will be followed as per the law governing communal land.
4	How dynamics for management of aquifers which are being recharged from a different country and what would be	There will be negotiations held between any such affected countries and engage stakeholders through IGAD.

	necessary for consideration in management of these aquifers?	
5	When communities will be resettled in new areas there are livelihoods and community owned water infrastructure e.g., water pans, irrigation systems, boreholes etc., how will these be considered in the new areas	The RPF has currently considered and provided for compensation for assets such as land and buildings, trees, businesses, crops etc. This only provides a framework for land acquisition and once the AADMPs have been done sub-project specific RAPs shall be developed for each area and shall look beyond land, livelihood and infrastructure which shall include community owned infrastructure such as water pans, schools, irrigation infrastructure. The RAPs will look at what, who, how?
6	How Is conflict management catered for in the project?	Currently, project entry points are county governments and tools for conflict management include stakeholders' engagement so that we are able to know the triggers and depending on our engagement on water conflict management. The projects shall also look at lessons learnt from implementation of similar projects. Additionally, Grievance Mechanisms are part of conflict management apparatuses.
7	How conflicts will be handled on infrastructure on transboundary aquifers	Sub-project specific ESIA's will be developed with mitigation measures for conflicts in such sub-projects.
8	How do we balance aquifer conservation, migratory routes, and grazing areas among other issues in this project?	An overlay of these factors will be done together with the AADMPs in order to take care of sanitation aspects which come as a result of settlements in these areas, therefore the project might consider removing settlements from these conservation areas for example. Sub-project specific ESIA's will be done to address such issues in consultation with stakeholders to come up with the best approach.
9	How shall we ensure ESMPs are implemented to curb impacts e.g., pollution arising from the projects?	Monitoring plans are part of the ESMPs to ensure the pans are implemented.

MIN 4: Closing remarks

Ms. Agatha mentioned that the objective of the meeting was to bring disclosure of the project to the stakeholders, present the safeguards instruments to the participants as well as also get feedback from the participants on the safeguards instruments.

Mr. Wotuku thanked everyone who attended the meeting and mentioned that a second stakeholders' meeting would be organized to attract more participants

Way Forward

1. Participants would be given more time to read the instruments sent together with the invitation letters and submit any additional written comments in one week’s time to MoWSI.
2. A second stakeholders meeting would be organized to attract more participants.

The meeting was adjourned at 12.30

ANNEX 12: MINUTES OF STAKEHOLDER CONSULTATION MEETING HELD VIRTUALLY ON MARCH 1, 2022

MINUTES OF THE 2nd VIRTUAL STAKEHOLDERS’ CONSULTATION MEETING ON THE ENVIRONMENTAL AND SOCIAL SAFEGUARDS INSTRUMENTS FOR THE KENYA GROUNDWATER FOR RESILIENCE PROJECT WHICH TOOK PLACE ON 1ST MARCH 2022 AT 8.00AM -1.20PM

Participants Present

Phoebe Orina	WRA Social Safeguards Officer	- Chairing
Noel Ndeti	WRA Environmental Safeguards Officer	- Moderator
Stella Warue	WSTF Social Safeguards Officer	- Taking Minutes
Ann Nabangala	WSTF Environmental Safeguards Officer - Managing the chats section	
Prof. Ontita	Consultant RPF & SEP	
Liya Mango	Consultant ESMF	
Margaret Irungu	MoWSI Transboundary department	
Kennedy Mkutu	World Bank	- In attendance

Civil Societies from Mandera, Marsabit, Turkana, Garissa, Wajir and Lamu Counties

Water Resources Authority

Water Sector Trust Fund

*See full attendance list at the end of the document (Annex 1).

Agenda

Introduction and registration of participants

Opening remarks and presentation from MoWSI

Presentation of E&S documents and plenary

Closing remarks

MIN 1: Introductions and registration of participants

The meeting started at 8.30 with a word of prayer from Stella Warue from WSTF. The facilitator, Mr. Noel Ndeti from WRA welcomed all the and requested everyone to introduce themselves and register their names, designations and organizations at the chat box so that they can be captured for documentation. The meeting was taking place on the Microsoft teams platform.

MIN 2: Opening remarks and presentation from MoWSI Transboundary department

Ms. Margaret Irungu from the MoWSI Transboundary department gave her opening remarks by making a presentation on the background of the Horn of Africa Groundwater for resilience project, the scope and budget of the project. She also mentioned that the meeting that was taking place was critical in ensuring that the project is disclosed to stakeholders but also that the stakeholders are consulted on the various environmental and social safeguards issues which are likely to arise during project implementation. Stakeholders were urged to give their comments during plenary to improve the documents.

MIN 3: Presentation of E&S documents

Resettlement Policy Framework

Prof. Edward Ontita, a consultant engaged in the development of the Resettlement Policy Framework (RPF) and Stakeholders Engagement Plan (SEP) made his presentations to the stakeholders. He highlighted some of the potential sub-projects which were likely to cause settlement of the project affected persons. He highlighted the processes which would be followed to ensure resettlement is done as per the World Banks' Environmental and Social Standards as well as the policies and laws of Kenya governing land and resettlement processes. All this having in mind the vulnerable and marginalized populations in the affected areas.

Stakeholders Engagement Plan

Prof. Ontita also presented the SEP to the stakeholders and highlighted that stakeholder's engagement in the project was critical in ensuring project success. It was a requirement by the Bank that all project affected parties, those with different influence and power, as well as those vulnerable and disadvantaged were to be engaged in the project. This then meant that stakeholders mapping should be done comprehensively to ensure none of the stakeholders is left out.

Environmental and Social Management Framework

Mr. Liya Mango, a consultant engaged in development of the Environmental and Social Management Framework (ESMF) made his presentation to the stakeholders. He highlighted that the main objective of the ESMF was to provide a framework for effective management of environmental and social (E&S)

risks in the proposed HOAGW4R project. It sought to both enhance (E&S) development benefits of the project and mitigate any potential adverse impacts, in line with Government of Kenya (GoK) and World Bank (WB) Environment and Social Standards (ESSs) including the WB Group Environment, Health and Safety (EHS) Guidelines.

Comments/Discussion

Project background by Ms. Margaret Irungu

Question (Qn): Winnie from SIKOM asked whether the project had already finalized identifying counties where intervention was to be done or there was room to consider West Pokot County since it equally needy.

Responses (Resp): Ms. Irungu mentioned that the project had a regional focus hence was focusing majorly on transboundary aquifers. This therefore meant that counties which shared aquifers with other countries were considered in the project. In this case the counties of interest were Mandera, Wajir, Garissa, Mandera and Marsabit were considered. Also in the project were Lamu and Tana River Counties because of the Neogene aquifer. She however mentioned that the country is trying to understand its groundwater resources and as knowledge and information emerges other Counties might be considered probably in future projects.

RPF, SEP & ESMF

Question (Qn): Prof Ontita Requested participants to identify any other categories of stakeholders who needed to be included in the SEP and share experiences on how they would be engaged?

Responses (Resp)/Discussions:

Unidentified participant mentioned herders needed to be included in the stakeholders list for engagement.

Noor Godana from Mandera County added that herders were part of the community and could be easily reached through the area Chiefs

Mr. Tom Masinde of World Vision Turkana said that one of the ways other stakeholders can be reached and involved was by utilizing already existing structures at the Count level and those that are project based to ensure public participation.

Ms. Hamdi Bishar of Northern Resilience Development Garissa County mentioned that in order to reach stakeholders, the project had to go to the ground for engagement. In addition, on who to engage, she mentioned that one approach was to appoint a member from each marginalized group e.g., PWD. Youth group, women among others

Aydrus from Wajir County mentioned that since the project is at the formative stages, the first step will be to have meetings with Counties then engage beneficiaries' communities where the sub-projects will be done. Have a different SEP for every community since communities are different and what works in one may not work in another. Use existing community/stakeholder engagement structures.

Bashir from Mandera said that County steering groups can also be used as one of the stakeholders' forums.

Sammy Gacheru of Pastoralists Girls initiative Organization mentioned that in order to reach a wide range of stakeholders, it was prudent for the MoWSI to have meetings at the county level to carry out project disclosure and project approaches. He also asked whether the MoWSI had any scheduled meetings with the stakeholders and how CSOs were involved in the project?

Prof. Ontita responded to Mr. Gacheru that the reason we had CSOs in the forum was to share their field experiences on working with these communities and various groups in the field so that the project can learn from these experiences.

Qn: Prof. Ontita asked stakeholders to share their experiences on land compensation for example on Water pans, boreholes etc.

Resp./Discussions

Aydrus from Wajir County responded that land compensation issues is a long journey requiring patience and that communities are difficult when it comes to land compensation. He shared an experience of compensation for the Garissa-Modogashe Road land compensation, and it was not an easy process. He however added that in Wajir, land which is meant for public good use, the communities usually donate the land e.g., for schools, hospitals, boreholes through the Chiefs. After which the land is registered for whatever purpose, it has been donated through the County process. This is because majority of the land is community land. However, if it is private land, then negotiations and agreements with the land owner will have to be reached.

Joel of RRDO from Garissa also said that the experience on land meant for public good use was the same as that of Wajir.

Nyang'ori Ohenjo of Centre for Minority Rights Development said that no community and has been registered. The Counties had been doing inventory with the Ministry of lands. If the project is to deal with community land they are to make sure the land is first registered. He was concerned that how the project would ensure that the rights of the communities are honored and include the voices of the communities effectively included from the beginning. He mentioned that it was important to map out these communities and engage them effectively to ensure that the right people are engaged. He cautioned against having elite capture. He suggested that proper safeguards are put in place and stratified for women, youth PWD, vulnerable groups among others in case they lose their livelihoods.

Aydrus from Wajir County responded to Nyang'ori by saying that since the communities will own the projects e.g., boreholes, pans etc., there was no need for land titles

Prof. Ontita mentioned that there would be minimal land acquisition under the project however, if there was any, then proper procedures would be followed as per WB requirements and GOK laws.

Qn: Prof. Ontita asked participants to share their experiences on handling grievances in their projects?

Tom Masinde from World Vision Turkana responded by saying that grievance mechanism was a way to ensure the voice of the beneficiaries is heard. He mentioned that this should be looked at as an element of social accountability.

Kennedy Mkutu asked further in addressing grievances, how do we deal with elite capture by ensuring the voice of the marginalized and excluded is heard?

Tom Masinde responded by saying the project needs to stratify the duty bearers and the beneficiaries in order to avoid elite capture and provide different grievance mechanisms for each.

Qn: Prof. Ontita asked participants if any of them have had experiences on gazettement of aquifer recharge areas

None of the stakeholders in the counties had experiences in gazettement. However, Phoebe Orina from WRA shared their experience gazetting the Nairobi Aquifer Suite and the Lamu sand dunes. She said that the process entailed undertaking a scientific study to establish the extent of the aquifer recharge zone, then development of an aquifer management plan which would give recommendations on whether compensation for land would be required. For Nairobi Aquifer, no compensation was required but for Lamu sand dunes, it was recommended that compensation should be done.

In this case affected land was mapped out and submitted to NLC for valuation and the process of compensation was started. Extensive stakeholder engagement had to be done in both areas beginning with the actual project affected persons, industries, farmers, county governments, County assembly and parliament representatives from the area. These stakeholders were engaged on what the meaning and implication of gazettement meant and they were engaged in development of management guides and water allocation plans and conservation activities for these areas. The Nairobi aquifer gazettement process is currently at the AG office but for Lamu the process was still ongoing. Grievance redress is key in this process because it can setback the process and hence require further stakeholders' engagement. In both, WRA ran the whole process and GOK will carry out the compensation

Qn: Participants were requested to share experiences on conflicts in the project area and how they have been handled during implementation of various projects?

Tom Masinde from World Vision Turkana County mentioned that the best approach to handle conflicts in projects is to follow the "Do no harm" principle. This included carrying out an assessment on what

brings communities together and what divides them. He added that if the location of a project would bring contention or conflicts, it would be better to identify a different site which would similarly work and bring people together.

Noor Godana from Mandera County also added that if a project e.g., borehole was identified between conflicting clans or communities, it was better to abandon the site since it would bring more conflicts.

Qn: Participants were requested to share their experiences on security issues in the 5 Counties

Tom Masinde from Turkana County mentioned that there are many conflicts in parts of the Counties therefore he recommended that when engaging contractors, the project should ensure there is a budget for security in the bidding process.

Joel of RRDO in Garissa County mentioned that security is a National government issue hence the project should consider working closely with the relevant security bodies.

Noor Godana from Mandera mentioned that for contractors who are non-locals they need to have armed security on a paid basis.

Qn: Participants were requested to share their experiences on GBV/SEAH issues in project implementation

Tom from Turkana mentioned that during bidding, the contractors should be screened to establish if they had any records of involvement in GBV/SEAH issues for elimination. He also added that they needed to be committing to safeguarding the people they are working in writing. He added that the contractors need to sign the code of conduct for non-staff and have guidelines for management of GBV issues and promise of confidentiality. Have clauses in the contract on protection of women and children.

The participants were asked whether there are referrals for GBV/SEAH cases and one participant said that there are trained paralegals in the counties in different locations who reach out to communities to address such cases.

Qn: Participants were requested to contribute on Labor management issues in project implementation

Mr. Nyang'ori Ohenjo mentioned that many projects engage high level skilled manpower from outside the communities as if the locals do not have such skills while cheap labor goes to the locals. He added that the locals should also be considered to provide high skilled manpower where there is any. He said that benefit sharing mechanism should be fair by getting a fair ration of manpower from outside and local communities.

Qn: Mr. David Mumo the WRA BAC Rift raised the issue of the aquifer recharge areas being the main grazing areas and migratory routes hence proposed project intervention may lead to resettlement in such areas?

The participant was informed that measures such as piping of the water can be done away from the areas of the recharge and this could reduce the resettlement in such areas.

There was a concern that the proposed intervention will not lead to degradation of the areas of intervention taking into consideration that migratory routes are determined by the availability of water.

Mr. Mumo also mentioned that County stakeholders knew seasonal migratory routes for communities. Therefore, it would be prudent for the project to establish new watering points in areas where pastoralists have traditionally found watering points and Pasteur and carry out development in the traditional migratory and grazing routes.

It was also suggested that there is need to map out migratory routes during dry and wet times and that development should not cut off migratory routes because it would be a source of conflict.

Aydrus from Wajir mentioned A question came up on how to let the community know that ground water belongs to the government and not to them. This is because some projects like the Ewaso Nyiro water abstraction program failed because the community objected.

Water quality and project sustainability issues in drilled boreholes

Edgar from Wajir and Garissa said that community buy in of projects is important to ensure sustainability. Many communities abandoned projects coz of unsustainability. He also mentioned that some boreholes have poor quality water hence communities tend to abandon the projects and the cost of treatment becomes high as well as the cost of buying diesel may need to be incorporated into the project.

Liya mentions that feasibility studies will be done by the WRA & MoWSI through the AADMPs will be done to establish the quality of water for portability. The exploratory wells will give this information.

Pasture and Environment Management

Aydrus from Wajir said that Boranas are highly disciplined in taking care of their environment unlike the Somalis from Garissa. This is because the Boranas have reserved water and Pasteur for drought but the Somalis sometimes come and invade these resources and create conflicts.

Hamdi from Garissa said that Garissa had once created some reserves which were later destroyed because of poor management She also mentioned that Garissa was generally drier than Isiolo.

Aden from Garissa also added that there were attempts by Garissa to create some reserves in Modogashe area but due to poor planning the reserve was damaged.

Kennedy Mkutu asked how these resource conflicts can be reduced and Aydrus from Wajir responded that water resources management in these counties is complex. Water management is done at village level and majority of Wajir is trying to streamline water management in their laws.

Northern Resilience reported that they have assisted Isiolo people to come up with Reserved Water Plans and this has reduced the conflicts in Isiolo however conflicts with Garissa people still exists. She requested if Garissa people can be assisted to come up with their own reserved water plans and this could reduce the conflicts.

Governance in Water Projects and Water Resources Management

Kennedy Mkutu asked whether WRUAs and WUAs were functional?

The issue of the Water Users Associations (WUAs) was also discussed, whereby Mandera reported that all the WUAs were acquired by the county. One of the participants from Elwak was not happy with the way the county acquired the WUAs. She indicated that she would like to engage further on the issue because the county grabbed the water projects. For the other counties, the WUAs are still in existence, though not many are structured.

Phoebe from WRA mentioned that WRUAs existed in these areas though not optimally established. There were areas where there were no WRUAs. However, WRUAs manage water resources and not water supply. WRUA governance issues vary from one WRUA to another and some require capacity enhancement to strengthen their governance. There is framework in place to support WRUA governance.

Aydrus from Wajir mentioned that water management is a complex issue and is done at the village level. He mentioned that efficient management of water resources needed to be engaged at county and community level. He mentioned that influence from MPs and MCAs (local leaders) allow communities to pocket money meant for projects hence ending up with failed projects.

Mr. Ndeti mentioned that this would then be classified as a social issue touching on governance.

Phoebe and Liya said that the proposed solutions for this would be to manage them using PBG approach since corruption will stall projects. They also mentioned that putting preconditions in place on governance issues such as having duly elected management, having returns to the AG, and also check on how the WRUA/WUA has handled past projects and if there were audit queries etc., would also help solve some of the governance issues.

Summary of E&S issues and mitigation measures

	Issues Raised	How will be addressed in project
1.	Stakeholders mapping and inclusion	<p>Carry out social and stakeholders mapping for inclusion of more stakeholders e.g., herders</p> <p>Utilize existing structures at the County and community level e.g., County steering groups</p> <p>Hold meetings on the ground and have different SEP for different communities since communities are different</p> <p>Stratify stakeholders and Identify members of marginalized and vulnerable groups e.g., women, youth, PWD, elderly etc., for engagement</p>
2.	Land compensation for e.g., water pans, boreholes, gazettement	<p>Majority of land is community land hence laws governing community land will be followed</p> <p>Land donation procedures should be followed for land donated by communities for public good use through the chiefs</p> <p>Ensure the rights of communities whose land and livelihoods is being displaced are engaged from the beginning as well as ensure elite capture is managed in compensation issues by ensuring the vulnerable and marginalized in the communities are identifies and properly compensated</p>
2.	Grievance mechanism	<p>The project needs to stratify the duty bearers and the beneficiaries in order to avoid elite capture and provide different grievance mechanisms for each.</p>
3	Conflicts management	<p>the best approach to handle conflicts in projects is to follow the “Do no harm” principle. This included carrying out an assessment on what brings communities together and what divides them.</p> <p>if a project e.g., borehole was identified between conflicting clans or communities, it was better to abandon the site since it would bring more conflicts</p>
4	Security issues in the 5 Counties	<p>the project should ensure there is a budget for security in the bidding process.</p> <p>security is a National government issue hence the project should consider working closely with the relevant security bodies.</p> <p>for contractors who are non-locals they need to have armed security on a paid basis.</p>

5	GBV/SEAH issues	<p>contractors should be screened to establish if they had any records of involvement in GBV/SEAH issues for elimination</p> <p>contractors need to sign the code of conduct for non-staff and have guidelines for management of GBV issues and promise of confidentiality.</p> <p>Have clauses in the contract on protection of women and children</p> <p>there are trained paralegals in the counties in different locations who reach out to communities to address such cases.</p>
6	Labour Management Issues	<p>He said that benefit sharing mechanism should be fair by getting a fair ration of manpower from outside and local communities</p>
7	Grazing areas and migratory routes and settlement in aquifer recharge areas	<p>piping of the water can be done away from the areas of the recharge and this could reduce the resettlement in such areas.</p> <p>to map out migratory routes during dry and wet times and that development should not cut off migratory routes because it would be a source of conflict</p> <p>project to establish new watering points in areas where pastoralists have traditionally found watering points and Pasteur and carry out development in the traditional migratory and grazing routes.</p>
8	Water quality and project sustainability issues in drilled boreholes	<p>feasibility studies will be done by the WRA & MoWSI through the AADMPs will be done to establish the quality of water for portability</p>
9	Pasture and environment management	<p>Assist communities to come up with their own water and Pasteur reserves to reduce the conflicts.</p>
10	Governance in water projects and water resources management	<p>Use PBG approach since corruption will stall projects.</p> <p>Have preconditions in place on governance issues such as having duly elected management, having returns to the AG,</p> <p>Evaluate how the WRUA/WUA has handled past projects and if there were audit queries etc., would also help solve some of the governance issues.</p>

MIN 4: Closing remarks

The meeting ended at 1.30pm with a wrap up of the session by the Chairperson. She informed the participants that all the inputs given by the stakeholders would consider in the planning and implementation of the programme. The participants with more contribution were requested to reach out into the contacts provided for the programme.

The closing remarks were given by the World Bank representative who thanked everyone for attending the meeting and for the wonderful engagement and inputs into the programme. A word of prayer was done by one of the participants and everyone was free to leave the meeting.

Way forward

Participants would be given more time to read the instruments sent together with the invitation and submit their comments in one week through a letter to MoWSI.

The meeting was adjourned at 1.30pm.





**Ministry of Water,
Sanitation and Irrigation**

