

REPUBLIC OF KENYA



MINISTRY OF WATER AND IRRIGATION

Proposed Kenya Water Supply and Sanitation Improvement Project (WaSSIP)

Indigenous Peoples Planning Framework (IPPF)

September 2007



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Abbreviations

ACHPR	African Commission on Human and Peoples' Rights
CBD	Convention on Biological Biodiversity
CBO	Community Based Organization
ESMF	Environmental and Social Management Framework
GoK	Government of Kenya
IP	Indigenous Peoples
IPO	Indigenous Peoples Organizations
IPP	Indigenous Peoples Plan
IPPF	Indigenous peoples Planning Framework
IPR	Indigenous Peoples Representatives
IPSS	Indigenous Peoples' Screening Structure
KAP/SLM	Kenya Agricultural Productivity- Sustainable Land Management Project
KfW	German Development Bank
LVNWSB	Lake Victoria North Water Services Board
NGO	Non-governmental Organization
NRM	Natural Resource Management Project
OP 4.10	Operational Policy of the World Bank on Indigenous Peoples
OP 4.12	Operational Policy of the World Bank on Involuntary Settlement
UNPFII	United Nations Permanent Forum on Indigenous Issues
WaSSIP	Water Supply and Sanitation Improvement Project
WKCDD/FM	Western Kenya Community Driven Development Project and Flood Mitigation Project
WSB	Water Services Board
WSP	Water Services Providers
WSS	Water Supply and Sanitation

Executive Summary

The Kenya Water Supply and Sanitation Improvement Project (WaSSIP) was set to achieve one of the Millennium Development Goals (MDGs) - access to safe water and improved sanitation. It has two specific objectives which are (1) Increase access to reliable, affordable and sustainable water supply and sanitation services; and (2) Improve the water and waste-water services in the areas served by appointed the Athi Water Services Board (AWSB), Coast Water Services Board (CWSB) and Lake Victoria North Water Services Board (LVNWSB).

The project has three key components (i) Support to Athi Water Services Board (AWSB) (ii) Support to Coast Water Services Board (CWSB) (iii) Support to Lake Victoria North Water Services Board (LVNWSB). Each WSB is responsible for implementing the WaSSIP project component falling within its area.

The Sengwer indigenous peoples (a hunter-gatherer community who live in three administrative districts of Marakwet, Pokot and Trans Nzoia) live in some areas in the jurisdiction of LVNWSB. The project triggered the World Bank's safeguards policy O.P 4.10 on Indigenous Peoples. Only Component 3 of WaSSIP is subject to this policy. WaSSIP involves multiple subprojects within the annual investment programs of the WSBs. As such an Indigenous Peoples Planning Framework (IPPF) is to be developed to provide for the screening and review of these subprojects in a manner consistent with OP 4.10. LVNWSB's subprojects to be financed under WaSSIP will be screened and if IP is a factor in the subproject, a subproject specific Indigenous Peoples Plans (IPP) will be prepared. These subprojects will not be implemented until the associated IPP has been developed in agreement with the affected Indigenous People's communities, cleared and disclosed.

There are two other projects in Kenya financed by the World Bank in the area which also triggered OP 4.10 and which have IPPF approved. These are (i) the Western Kenya Community Driven Development and Flood Mitigation Project (WKCDD/FM) and (ii) the Natural Resource Management Project (NRM). The IPPF for WaSSIP should be consistent with the existing IPPFs. The WaSSIP IPPF should therefore build upon and be read in conjunction with the IPPFs for WKCDD and NRM.

In the course of developing the WaSSIP IPPF, the relevant documents were reviewed and discussions held with project implementers in Nairobi and Kakamega and visits made to five Sengwer areas namely Kapsowar, Kapcherop, Kapenguria, Kapolet, and Kesogon. In these places discussions were held with the communities who included men, women and youth who are affected differently by the project.

It has been observed that the Sengwer (1) experience high levels of poverty levels compared to other rural Kenyan households; (2) have inadequate representation in decision-making bodies; (3) receive less social services; (4) experience discrimination from the legal system, and this constraints their access to natural resources necessary for their livelihoods; (5) experience losing their lands through encroachment by outsiders; (6) lack the capacity/ technical skills and capital to take advantage of new business opportunities; and (7) have tended to rely more on non-governmental organizations to defend and promote their interests.

In terms of the impacts of the proposed WaSSIP on the Sengwer, discussions and observations identified both potential positive and negative impacts. The potential positive project impacts identified include: (1) water will boost local economic development, boost food security and household incomes, reduce poverty and vulnerability; (2) improved health situation by reducing water-borne disease, increasing levels of hygiene and sanitation; (3) reduced work loads of women and allow them to be engaged in other strategic gender initiatives. The potential negative impacts include: (1) concentration of people and livestock around constructed water points; (2) loss of water rights due to increased encroachment of Sengwer territory by outsiders attracted by the water; (3) increase in soil erosion; (4) loss of biodiversity; (5) increase of mosquitoes and water borne diseases; (6) the participation of women in decision making processes is relegated to the margins - it is recommended that WaSSIP should enhance the capacity of women through exposure and leadership training.

The IPPF WaSSIP will apply several mechanisms to address possible adverse impacts from the project and ensure that indigenous peoples received culturally appropriate benefits, including: (i) support and capacity building will be provided to IP communities on IP issues pertaining to water supply and sanitation, orientate IP communities of sector policy and instruments, preparation and monitoring of IPPs; (ii) ensuring communication and consultation between the IP communities and service provision institutions through the institution of a steering committee involving the IP communities, LVNWSB and the provincial administration, (iii) providing the IPs full opportunities in decision making and management of WSS serviceprovision in their own areas; (iv) providing for the inclusion of IPs (through consultation and participation) in the development of water services infrastructure; and (v) expanding access of clean and reliable water for IPs. It is recognized that some of these measures would require a broad based approach for which LVNWSB may have some limitation in handling. The WaSSIP IPPF proposes a framework for factors that can be addressed within the project's objectives while providing LVNWSB with opportunity for collaboration and mediation mechanisms that will provide a platform for addressing the wider issues of interest to the Sengwer community.

The WaSSIP component under LVNWSB is part of coordinated effort between two development partners - the World Bank and KfW – who are supporting LVNWSB in parallel through their respective projects. The Bank (WaSSIP) support is envisaged to include (i) a set of towns where technical feasibility works have earlier been carried out under the KfW project, and (ii) selected locations/rural schemes not covered by KfW. For (i), although WaSSIP will adopt and make use of feasibility and designs previously done under KfW funding, its infrastructural investment would be stand alone and separate from KfW's project. It is noted that KfW had previously reached a bilateral agreement with the Sengwer in some areas which involves provision of some infrastructure and facilities. The WaSSIP component does not cover this agreement and it will be necessary for LVNWSB, while implementing the KfW project, to ensure that the issues covered in the agreement are carried out.

In order to secure optimal participation of the Sengwer Community during implementation of WaSSIP, a communication framework between the Sengwer, the provincial administration and LVNWSB will be necessary. Sensitization of the officials of the LVNWSB on indigenous peoples issues in general and the IPPF in particular will

Chapter One: Overview of the Preparation the Indigenous Peoples Planning Framework for WaSSIP

1.1 Background information

The Government of Kenya (GOK) has requested financial assistance from the World Bank to implement the Water and Sanitation Service Improvement Project (WaSSIP). The project seeks to: (a) increase access to reliable, affordable and sustainable water supply and sanitation services; and (b) to improve the water and wastewater services in the areas served by Athi Water Services Board (AWSB), Coast Water Services Board (CWSB) and Lake Victoria North Water Services Board (LVNWSB). This will be achieved by (i) rehabilitating selected existing water production, transmission, storage and distribution facilities and wastewater collection, treatment and disposal facilities, (ii) expanding piped water supply services to under-served areas through the extension of primary and secondary distribution pipes where required (this would include service expansion into urban slums / informal settlements through a balanced program including the involvement of communities in decision making), and (iii) refining and strengthening the institutional structure, emphasizing on increasing accountability and transparency of the institutional and governance and management framework.

WaSSIP will be implemented in selected locations in the form of multiple sub-projects within the areas of jurisdiction of AWSB, CWSB and LVNWSB. LVNWSB which is implementing WaSSIP in Western Kenya reported that potential activities in some rural project locations may impact the water supply and catchment of Sengwer communities because the water supply catchment area borders the Cherengani hills which include the Sengwer traditional territories of Kapcherop, Kapolet, Kapenguria, Kesogon, and Kapsowar communities. To this end, the proposed project triggers the World Bank's Indigenous People Policy (O.P 4.10) and it was determined that an Indigenous Peoples Planning Framework (IPPF) be prepared to apply to the affected indigenous communities in these locations. The IPPF provides for the screening and review of the subprojects in a manner consistent with this policy.

The identified WaSSIP locations within LVNWSB's jurisdiction overlap the areas of two other World Bank projects i.e., the Western Kenya Community Driven Development and Flood Mitigation Project (WKCDD/FM) and Natural Resources Management Project (NRM). An Indigenous Peoples Planning Framework (IPPF) was developed for WKCDD/FM and NRM in order to mitigate the negative impacts of the projects on indigenous peoples and to ensure Indigenous Peoples receive benefits from the project activities. In preliminary consultations with the Sengwer during the preparation of WaSSIP, the Sengwer agreed to the merging of all World Bank project activities, with regards to indigenous peoples in the area, into one cohesive action plan.

The present IPPF builds upon the IPPF developed for WKCDD/FM and NRM which was adopted by the GOK in December 2007. This IPPF draws upon the result of a consultancy contracted to work in close collaboration with Lake Victoria North Water Services Board (LVNWSB), and Sengwer community members in order to prepare an IPPF for WaSSIP project activities that builds upon the IPPFs completed for WKCDD/FM and NRM.

1.2 Consultancy Assignment to Help Prepare IPPF

The objectives of the assignment were:

1. To update and build upon the Indigenous Peoples Planning Framework (IPPF) developed for the Western Kenya Community Driven Development and Flood Mitigation Project (WKCDD/FM) and Natural Resource Management Project (NRM) to include the Water Supply and Sanitation Improvement Project (WaSSIP) activities which may impact Sengwer population and their ancestral territory.
2. Recommend measures through which WaSSIP will ensure that indigenous peoples affected by the project activities receive culturally appropriate social and economic benefits and potential adverse impacts are identified in order to avoid, minimize, mitigate, and/or compensate for adverse effects

1.3 Scope of the Consultancy

The scope of the consultancy included:

1. Informing the Sengwer about the possible benefits and adverse effects of the project and solicit suggestions from them on how to maximize benefits and minimize adverse impacts of the project.
2. Identifying key project stakeholders and culturally appropriate processes for consulting with Sengwer at each stage of the project preparation and implementation (and in each of the four areas identified).
3. Describing the Sengwer cultural and spiritual values with regards to ancestral lands and its resources
4. Identifying the ways in which Sengwer will be included to participate in decision-making processes concerning project activities in their area.
5. Identifying the process to be followed by LVNWSB to ensure free, prior and informed consultation with and participation by Sengwer communities during the project implementation, monitoring, and evaluation.
6. Determining the magnitude and area of potential project impacts, both positive and negative.
7. Determining if and what additional measures are required to address adverse impacts on Sengwer and provide them with culturally appropriate benefits.
8. Describing how executing agencies will enable Sengwer to share equitably in project benefits.
9. Listing any formal agreements reached with the Sengwer.
10. Determining if land acquisition will be necessary for project activities, the amount of land needed, current status of land use, and Sengwer views towards land acquisition for implementing project activities.
11. Describing legal and institutional frameworks applicable to the Sengwer,
12. Gathering and updating information concerning baseline information on demographic, social, cultural and political characteristics of the Sengwer community, the territories traditionally occupied and the natural resources on which they depend.
13. Addressing gender issues which exist within Sengwer culture by determining opportunities and constraints for increased participation of women in project planning and implementation
14. Identifying customary rights of Sengwer with regards to ancestral territories

15. Identifying ways in which ancestral land of the Sengwer and its resources will be protected against illegal intrusion or encroachment, including a detailed map showing Sengwer ancestral territory, current reserve and park boundaries within and adjacent to Sengwer ancestral territory and describe what actions to be taken to receive legal designation as a tribal group and recognition of the ancestral land).
16. Determining what capacity building measures are needed by the Sengwer to effectively participate in project implementation, monitoring and evaluation and which ones are needed by LVNWSB.

1.4 Expected consultancy outputs

The overall output of the consultancy is a report outlining the IPPF for WaSSIP which includes a case by case assessment of the various options on how to rehabilitate the livelihoods of the Sengwer impacted by the project such as establishing access to land and land-based resources in the forests, providing the buffer zone of the forest and engage indigenous peoples into participatory water supply service provision in respect of their dignity, human rights, economics and culture and the needs of the forest and biodiversity conservation.

1.5 Methodology

The consultant used the following methods to generate data which forms the basis of the report:

1. Review of existing literature which included project documents, minutes of consultative meetings and of meetings of management committees of different Water Users Associations in the project areas.
2. Interviews with the affected indigenous communities, staff of LVNWSB and other civil society organizations working in the project area. The consultant developed a guide questionnaire that was used to generate data from interviews.
3. Focused group discussions meetings were convened in Kapcherop, Kapsowar, Kapenguria, Kesogon and Kapolet in which the consultant asked questions that generated debates and discussions among those in attendance.
4. Expert observations.

Chapter Two: A Brief Description of the Water Sector Institutional Framework

2.1 Introduction

Like other citizens of Kenya, the Sengwer have the right to benefit from water and sanitation services provided by sector institutions responsible for the delivery of safe water and sanitation services. The following describes the background of the sector and the sector institutional framework within which these services are to be provided to the citizens of Kenya.

2.2 Background Information

Kenya made large investments in production and treatment capacities during the 1980's and 1990's. But inadequate management and maintenance, coupled with a lack of commensurate expansion in distribution networks, these investments did not result in efficient and sustainable service distribution. Consequently, by the start of the new millennium there was widespread collapse of infrastructure due to under-investment in operations and maintenance. WSS operations were not transparent, unsustainable and ill suited to respond to consumer needs. The delivery of WSS services were fragmented in an incoherent way into the responsibilities of different agencies and organizations. As a result, there was lack of coordination on the one hand and overlap of mandates on the other resulting in a confused sector situation with lack of accountability.

Starting in 2003, the GOK, spearheaded by the Ministry of Water and Irrigation (MWI) commenced the implementation of the Water Act (2002). The Water Act (2002) as a sector reform tool represents one of the most far reaching and comprehensive sector reform envisaged and undertaken by any country. The Act called for a complete change of the sector landscape to create a comprehensively new institutional setup, aimed at harmonizing and streamlining the management of water resources and water supply and sewerage services.

2.3 Sector Institutional Framework

Water Supply and Sewerage Sector Organization. The sector institutional framework stipulated in the Water Act (2002) is aimed at harmonizing and streamlining the management of water resources and water supply and sewerage services. A key principle of the new service delivery framework is the separation of functions between each aspect of service delivery - policy making, regulation, asset ownership / control and service delivery operations. The consequent formalization of relationships between these functions is expected to reduce conflicts of interest and increase transparency and accountability.

Institutional Responsibilities. The Water Act (2002) created a set of new institutions and set out the mandates and responsibilities of each sector institution. These mandates are summarized below:

- **The Ministry of Water and Irrigation (MWI):** The Ministry focuses on policy development, sector coordination, monitoring and supervision to ensure equitable and effective water and sewerage services in the country, sustainability of water resources and development of water resources for irrigation, commercial, industrial, power generation and other uses.
- **The Water Appeals Board (WAB):** The Water Appeals Board is responsible for the determination of appeals and disputes, including those involving conflicts over water resources. The decision of this board is final, except in matters of law whereby an appeal could be made to the High Court
- **The Water Services Trust Fund (WSTF):** The Water Services Trust Fund assists in the financing the provision of water services to areas without adequate water services. Trustees appointed and holding office under a Trust Deed prepared by the Minister (of Water and Irrigation) manages the Fund.
- **The Water Services Regulatory Board (WSRB):** The Water Services Regulatory Board is responsible for the regulation of water and sewerage services, including licensing, quality assurance, and issuance of guidelines for tariffs and prices and dispute resolution.
- **The Water Services Boards (WSBs) and Water Service Providers (WSPs):** The Water Services Boards are responsible for the efficient and economical provision of water and sewerage services within their area of jurisdiction. Seven such bodies have been established to cover the entire country. However, direct provision of water services would be undertaken by Water Service Providers who are agents of Water Service Boards except in cases where the Water Services Regulatory Board (WSRB) is satisfied that the procurement of such agents is not possible or that provision of services by such agents is not practicable. The water services providers may be community groups, Non-Governmental Organizations, or autonomous entities established by local authorities or other persons.

Key Relationships between Institutions. The key relationships between sector institutions (MWI, WSRB, WAB, WSBs and WSPs) are defined in a series of documents (Acts, licenses, agreements) that constitute the overall framework of responsibilities for the provision of WSS services:

- **License granted by the WSRB to the WSBs.** The WSBs have been issued a License to mandate them to ensure the provision of water services in their area of jurisdiction. The WSBs would remit a fee (based on a percentage of the operational income of the WSBs subject to a maximum cap) to the WSRB which would, in part, fund WSRB's operations and activities.
- **Relationship between MWI and WSBs.** As provided for in the Water Act (2002), the Minister for Water and Irrigation has the responsibility of establishing

(by official gazette) the Water Services Boards and appoint their Board of Directors¹. Seven WSBs have been gazetted in Kenya and their Board of Directors chosen to represent various stakeholders (at present, the stakeholder groups are principally representative of the area districts, central government and consumers).

- **Relationship between Water Services Boards (WSBs) and Water Services Providers (WSPs).** WSBs are required to sub-contract technical, financial and commercial operations to WSPs (except in very limited circumstances). The contracting process is effected through a Service Provision Agreement (SPA) that specifies how: (a) the WSS service has to be provided; (b) the WSS assets have to be operated and maintained; (c) connections have to be provided to new customers; (d) consumption has to be metered and billed; and (e) bills have to be collected. The SPA specifies how the WSPs are to be remunerated for (i) operating the services on behalf of the WSBs, and (ii) performing delegated works on behalf of WSBs.

Water Services Provider (WSPs). While it is not a requirement under the Water Act (2002), most WSPs appointed thus far are companies (or other legal entities) owned by local authorities or where local authorities and/or communities have a major stake. In many smaller rural communities, Community Based Organizations (CBOs) have been appointed as WSPs. The involvement of local stakeholders is a positive element of the current typical arrangement, which provides for the representation of broad stakeholder voice in the provision of services to the local community.

¹ The term of appointment of the Board of Directors is three years.

Chapter Three: A Brief Description of Kenya Water and Sanitation Improvement Project (WaSSIP) and Locations Affecting the Sengwer

3.1 Background Information

Access to safe water and improved sanitation comprise one of the Millennium Development Goals (MDGs) which the Government of Kenya (GoK) has subscribed to. The MDG envisages access to safe water and improved sanitation of 70% and 93% respectively by 2015. The GoK has mainstreamed its National Water Policy to envisage 100% access to safe water for the country's population by 2010. To achieve this target, the GoK has been implementing a far reaching sector reform program since 2002 aimed at harmonizing the management of water resources and water supply and sanitation (WSS) throughout the country. This reform has been propelled by the Water Act (2002), which aims at harmonizing the management of water resources and water supply and sanitation. A central tenet of the new reforms in the service delivery framework is the separation of functions between each aspect of service delivery - policy making, regulation, asset ownership/control and service delivery operations - in order to reduce conflict of interest. Consistent with this tenet, the GoK has reorganized the Ministry of Water and Irrigation into a body focused on policy issues and has established Water Services Regulatory Board and Water Services Boards, each mandated to appoint Water Services Providers (WSP), which are legal entities contracted to be responsible for service delivery operations.

The World Bank has been supporting the GoK in its water sector reforms for sometime. Based on the continuing satisfactory implementation of the ongoing Nairobi Water and Sewerage Restructuring Project (NWSIRP), the GoK proposed to the World Bank for consideration to finance a follow-up project to continue the Bank's support to the reform and investments in the water supply and sanitation improvement sector. Following a project identification mission held in August 2006 and an agreement on the overall concept of the project, a team from three Water Services Boards, with the support of the Ministry of Water and Irrigation (MWI) began to develop and prepare the Kenya Water Supply and Sanitation Improvement Project (WaSSIP).

3.2 Water and Sanitation Service Improvement Project (WaSSIP)

The Kenya Water and Sanitation Services Improvement Project (WaSSIP) aims to support the water sector reform effort of the Government of Kenya by achieving two objectives namely (1) increase access to reliable, affordable and sustainable water supply and sanitation services and (2) improve the water and wastewater services in the areas served by appointed water boards (i.e. ASWB, LVNWSB and CWSB. These objectives would be achieved by (1) rehabilitating selected existing water production, transmission, storage and distribution facilities and wastewater collection, treatment and disposal facilities, (2) expanding piped water supply services to under-served areas (including urban slums) through a balanced program including the involvement of communities in decision-making and extension or primary and secondary distribution pipes where required and (3) refining and strengthening the institutional structure, emphasizing accountability and transparency of the institutional and governance and management framework.

3.3 Project Components

The project would have three major components: (1) support to the Athi Water Services Board (including technical assistance support to the Water Sector Regulatory Board and the Water Appeals Board²), (2) support to the Coast Water Services Board, and (3) Support to the Lake Victoria North Water Services Board. These are summarized below. Within each component, there are two main subcomponents for water and sewerage infrastructure rehabilitation and expansion are focused on increasing the access of safe water and sanitation services to the beneficiaries. A further subcomponent of institutional strengthening of WSBs is focused on the quality, reliability, affordability and sustainability service provision to beneficiaries and the long term viability and sustainability of service provision institutions.

Component 1. Support to the Athi Water Services Board (including technical assistance support to the Water Sector Regulatory Board and the Water Appeals Board). This will include:

- (a) the rehabilitation of existing water supply systems including transmission pipelines, water treatment works, storage, water distribution networks, boreholes; construction of water treatment works in selected small towns, and extension of water distribution networks and metering, including expansion to informal settlements;
- (b) the rehabilitation of sewerage networks and sewage treatment facilities, and extension of existing networks;
- (c) supporting selected equipment and activities aimed at strengthening the commercial, financial and technical operations at AWSB and water services providers, technical assistance for M&E, engineering, financial, legal, assets valuation, audits, informal settlements WSS program, communications, environmental and safeguards, and independent assessments of the institutional framework; programs to increase oversight and transparency of service delivery; and training and capacity building;
- (d) supporting the operationalization and strengthening of the Water Sector Regulatory Board (WSRB) and the Water Appeals Board (WAB).

Component 2. Support to the Coast Water Services Board. This will include:

- (a) the rehabilitation of existing water supply systems including transmission pipelines, water treatment works, storage, water distribution networks, boreholes; construction of water treatment works in selected small towns, and extension of water distribution networks and metering, including expansion to informal settlements;

² Support to WAB and WSRB will be small and limited. These supports are complementary to a more comprehensive GOK strengthening program supported by other development partner (e.g., WSRB receives key support from GTZ).

- (b) the rehabilitation of sewerage networks and sewage treatment facilities, and extension of existing networks;
- (c) supporting selected equipment and activities aimed at strengthening the commercial, financial and technical operations at CWSB and water services providers, technical assistance for M&E, engineering, financial, legal, assets valuation, audits, informal settlements WSS program, communications, environmental and safeguards, and independent assessments of the institutional framework; programs to increase oversight and transparency of service delivery; and training and capacity building.

Component 3. Support to the Lake Victoria North Water Services Board. This will include:

- (a) the rehabilitation of existing water supply systems including transmission pipelines, water treatment works, storage, water distribution networks, boreholes; construction of water treatment works in selected small towns, and extension of water distribution networks and metering, including expansion to informal settlements;
- (b) the rehabilitation of sewerage networks and sewage treatment facilities, and extension of existing networks, the construction of sewerage systems in selected small towns (of less than 2,500m³/d each); on-plot sanitation; and hygiene campaigns;
- (c) supporting selected equipment and activities aimed at strengthening the commercial, financial and technical operations at LVNWSB and water services providers, technical assistance for M&E, engineering, financial, legal, assets valuation, audits, informal settlements WSS program, communications, environmental and safeguards, and independent assessments of the institutional framework; programs to increase oversight and transparency of service delivery; and training and capacity building.

Per Section 1.1, potential project activities in some rural project locations within the areas of LVNWSB may impact the water supply and catchment of Sengwer communities. As such, only Component 3 of WaSSIP is subject to the World Bank's Indigenous Peoples Policy. All project locations which impact the water supply and catchment of Sengwer communities i.e., water supply catchment area within or bordering the Cherengani hills which include the Sengwer traditional territories of Kapcherop, Kapolet, Kapenguria, Kesogon, and Kapsowar communities, will be subject to the provisions of this IPPF.

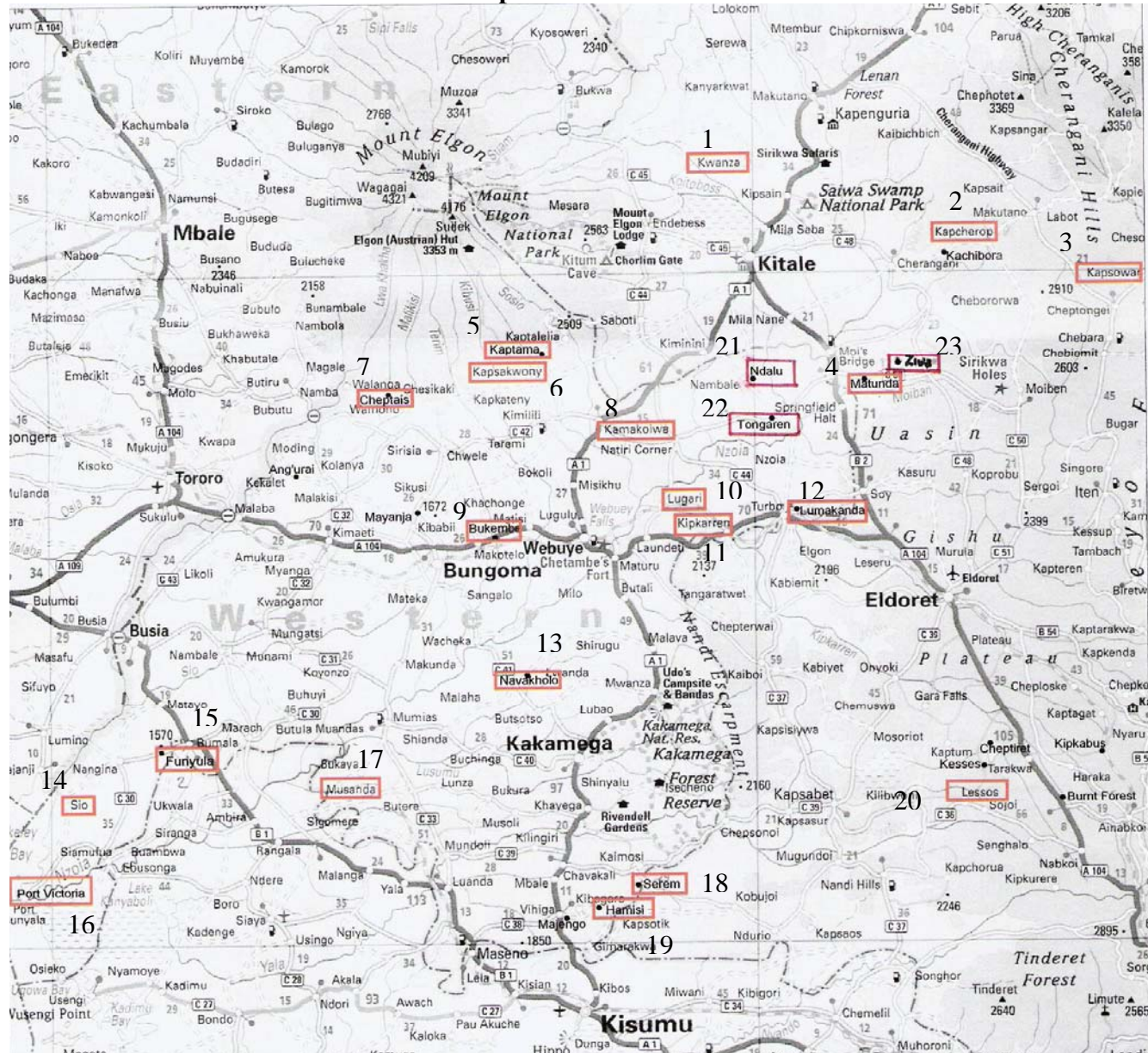
3.4 Current Rural Project Locations in LVNWSB's Area

A batch of subprojects in selected rural locations has been identified for the improvement of water supply under WaSSIP during the initial period of Component 3 of WaSSIP. These are summarized in the Table 2.3 and shown in Map 2.3. Other subprojects will be identified as part of LVNWSB's annual investment programs and carried out subject to available project funds.

Table 2.3

No.	Name	Tope-Sheet	No.	North	East	Source of Water	IP Factor
1	Kwanza	Enders	74/4	1°10'	34°59'	Ngenge Dam	No
2	Kapcherop	Cherengani	75/4	1°02'	35°18'	River Losorua	Yes
3	Kapsowar	Kapsowar	90/1	0°59'	35°33'	Aror River	Yes
4	Matunda	Hoeys Bridge	89/1	0°51'	35°08'	Ziwa Dama	No
5	Kaptama	Kiminini	88/2	0°53'	34°46'	Sosio River	No
6	Kapsakwony	Kimilili	88/1	0°51'	34°43'	Sosio River	No
7	Cheptais	Bubulo	64/3	0°48'	34°27'	River Malakisi	No
8	Kamakoiwa	Kiminini	88/2	0°46'	34°47'	River Nzoia	No
9	Bukembe	Bungoma	88/3	0°37'	34°39'	River Kuywa through Bugoma WS	No
10	Lugari	Lugari	88/4	0°39'	34°53'	Kipkaren River	No
11	Kipkarren	Lugari	88/4	0°37'	34°58'	Kipkaren River	No
12	Lumakanda	Soy	89/3	0°38'	35°01'	Kipkaren River	No
13	Navakholo	Bunyala	102/1	0°25'	34°41'	Boreholes	No
14	Sio Port	Samia	101/3	0°13'	34°02'	Lake Victoria	No
15	Funyula	Busia	101/1	0°17'	34°07'	Boreholes	No
16	Port Victoria	Sigulu	73/4	0°07'	33°59'	Lake Victoria	No
17	Musanda	Ugenya	101/4	0°14'	34°26'	Viratsi River	No
18	Serem	Kaimosi	102/4	0°05'	34°51'	River Garagoli	No
19	Hamisi	Kaimosi	102/4	0°04'	34°48'	River Garagoli	No
20	Lessos	North Tinderey	103/4	0°13'	35°18'	Cheplelachbei River	No
21	Ndalu	Kiminini	88/2	0°52'	34°59'	River Nzoia	No
22	Tongaren	Kiminini	88/2	0°47'	34°57'	River Nzoia	No
23	Ziwa	Hoeys Bridge	89/1	0°50'	35°13'	Ziwa Dams	No

Map 2.3



Chapter Four: Indigenous Peoples in WaSSIP Operational Areas

Project preparation, especially the social analysis, identified that there are tribal peoples in the project operation areas that are identified as Indigenous Peoples, namely the Sengwer.

4.1 Historical Issues

4.1.1 Sengwer Indigenous Peoples

The Sengwer live in the three administrative districts of Marakwet, West Pokot and Transzoia in and along Cherangany Hills. They are estimated to be 50,000 (30,000 of them live in their traditional territories and another 20,000 in the diaspora). The Sengwer in Kapenguria and Kesogon hold the total population of the Sengwer at 70,000. They lived by hunting and bee keeping³. In his evidence before the 1932 Kenyan Land Commission, Mr. C.H. Kirk, stated how they used to go over Cherengany shooting and the only peoples with whom they came into contact along Cherengany Hills were the Cherengany Dorobo, a small tribe of Dorobo (Sengwer)⁴. The Sengwer in diaspora are spread in and out of Kenya living amongst Maasai (Kenya and Uganda), Pokot (Uganda and Kenya), Sabiny (Uganda), Luhya (Sirikwa Mpai, Apa Sengeli), Tugen, Ogiek, Kipsigis, Nandi, Marakwet, Keiyo, Sabaot (Kiptum 2006).

4.1.2 Social organization of the Sengwer

The Sengwer believed they come down from a place called Rokos in Egypt. They came down the Nile River and moved eastwards where they settled along the Cherangany Hills. The first person to settle at Cherangany Hills was called Sengwer and he later had two sons, Sirikwa and Mitia. These two sons had seven and six sons respectively and they came to constitute the thirteen clans of the Sengwer. Sirikwa's sons are Kimarich, Kasango, Kapcherop, Kaptogom, Kapumpo, Kapcheparr and Kapchepororuo. The sons of Mitia are Kamesieu, Kaplema, Kamengetiony, Kipsirat, Kateteke, and Kapsormei). The names of the 13 sons constitute the present sub-tribes of the Sengwer. Clan names actually indicate people who share the same ancestors. Historically, every Sengwer sub-tribe had a portion of land running from the highlands down to the plains. This system of land ownership controlled hunting, beekeeping and gathering and the sub-tribes respected it. A member from one sub-tribe could not go into another sub-tribe's territory for hunting, honey collection, etc. without negotiating access.

The Sengwer are traditionally organized according to a patrilineal form of social organization in which male elders wield a lot power and influence. Despite the existence of women councils, women clearly occupied sub-ordinate roles, controlled fewer resources and held less power.

³ Evidence given by Mr. C.H. Adams acting PC Rift-valley before the Kenya Land Commission report in 1932

⁴ Mr. H.C. Kirk giving evidence before the Kenya Land Commission on 8th October 1932.

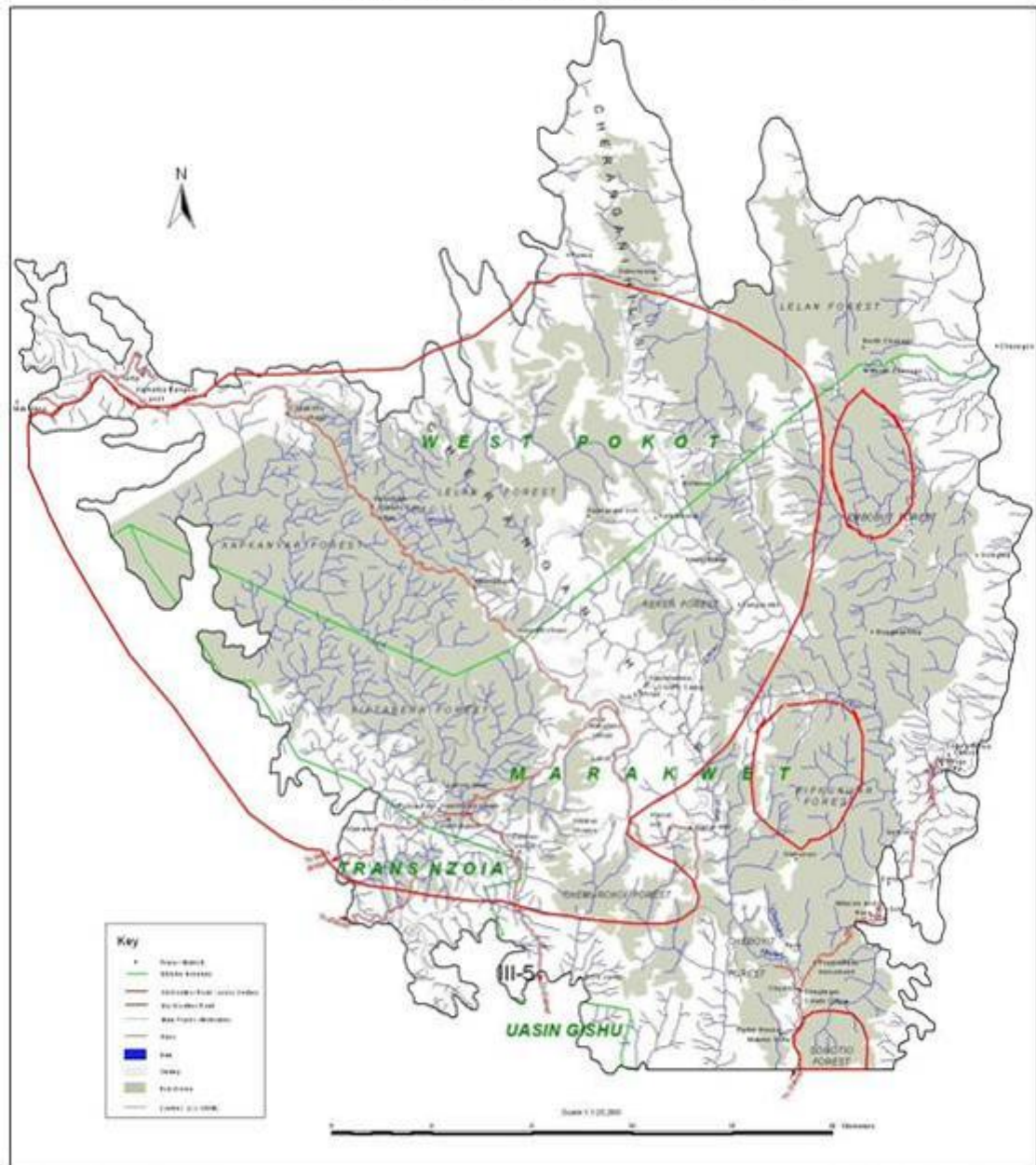
Men hold a dominant place in the Sengwer communities because the Sengwer are organized according to a patrilineal form of social organization in which men and male elders wield lot of power and influence. Despite the existence of women councils, women clearly occupy sub-ordinate roles, control fewer resources and hold less power.

4.1.3 Ancestral Territories, Lands and Natural Resources

The Sengwer tribal boundary covers the whole of what is today's Cherengany constituency, parts of Sabaot and Kwanza constituencies in Trans-Nzoia district, parts of Lugari district, parts of West and East Marakwet constituencies in Marakwet district, and parts of Kapenguria and Sogor constituencies in West Pokot district. Before the coming of the colonialists Sengwer lived in these areas from time immemorial and bordered the Nandi, Pokot (Suk), Marakwet, Uasin Gishu Maasai, Keiyo, Karamojong (Uganda), Kony, and Sebei (Uganda) communities (Kiptum 2006). The Sengwer claim to have used the forest continuously since the advent of colonial government⁵. The Sengwer in West Pokot (Kapenguria and Kesogon) complain about Pokot cattle rustlers who steal their cattle, kill their people and hide in the forests. The ancestral land of the Sengwer commences from Kiporoom River in Uasin Gishu District and extents along Kapsumbeywet River through Ziwa (Sirikwa) center, Moiben Posta and Kose hills in Uasin Gishu from here it goes down to join Moiben River. The boundary goes up Moiben River to the confluence of Ko'ngipsebe and Kamowo streams. It turns eastwards to cover areas of Maron Sub-location in Emboput location in Marakwet District. Turning to the West it then goes to Kamolookon along Marakwet/West Pokot and Marakwet boundary. From here it drops to Sebit, Somor, then to Kongelai and up along Swom River. From Swom river to the confluence of Swom and Cheptenden River and from hereto the confluence of Cheptenden River and Moiben River where these two Rivers confluence with Kiboroom (Kiptum 2002). Today, the Sengwer believe that land the Cherenganyi Hills and the plains was their ancestral land before it was taken away to make room for White settlements (KARI 2005).

⁵ The Assistant Distict commissioner, Marakwet, in a letter to the Provincial Commissioner, Naivasha, dated 12th December 1915

TOPOGRAPHICAL INFORMATION OF CHERANGANI WATERSHED



Map of Cherangani Watershed Topographical Map (1:100,000)

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4.1.4 The Livelihood systems of the Sengwer

The livelihood systems of the Sengwer have been organized mainly around hunting and gathering. Hunting and gathering rights were mediated through sub-tribal and clan membership. Hunting was carried out in groups (*Sakas*) or individually (*kwoo*) by the use of spears, arrows and traps while gathering was carried out mainly by women. Honey collection in the forest was mainly done by men. Honey among the Sengwer people was used as food, ointment to keep mosquitoes away and as part of dowry payment. With the introduction of agriculture, the major production activities are still done by women while men control the marketing of valuable products. The settlement of European farmers in their country marked the beginning of Sengwer farm laboring. Their interaction with other communities, such as the Maasai and the sedentary Luhyia introduced them to animal rearing and small scale cultivation, respectively. Evidence suggests that by 1932, the Sengwer were cultivating and rearing cattle in the Kapchein Valley⁶. They used to take their stock to Kaption salt-lick. They adapted agriculture and they now grow a variety of vegetables, millet, sorghum, maize, beans, potatoes and many types of fruit. Livestock reared by the community include cattle, sheep, goats and poultry.

4.1.5 Alienation of Sengwer ancestral lands

The alienation of Sengwer traditional territory has been going on systematically since the colonial times. The British colonial administrators alienated much of Sengwer land for European settlement. The Chairman of the Carter Land Commission (1932) was clear in stating that “there was no question of the Europeans’ land being handed back to the Sengwer”⁷. The Sengwer who occupied Soi (the plains of Kapchepkoilel) lost their land stretching from Kapkoi in Trans Nzoia through Naitiri to Turbo in Uasin Gishu to white settlers. Likewise, the territory from Turbo, through Ziwa (Sirikwa) all the way to Moiben was also lost to colonial settlement. Other communities which took over land belonging to the Sengwer include Marakwet, Keiyo, Pokot (Suk), Nandi, and recently other migrants such as Kikuyu, Akamba, Kisii and a few Turkana. The Marakwet for example settled in between the Moyben and the Ndungiserr and spread beyond over the Cherenganyi country⁸. In 1938 and 1939, meetings were held at Lelan in Cherenganyi to consider the claims of the members of the Cherengayi tribe to expel the Elgeyo who occupied the Cherenganyi Location. This claim was based on prior occupation by the Cherenganyi and bad behavior taught to the Cherenganyi by the young people of the Elgeyo. In 1939 there were 50 Elgeyo immigrants owning approximately 1,200 hectares of land belonging to the Sengwer⁹. A large area of Sengwer land was converted into forests and thus denying access to their home, herbal medicine, food and peaceful coexistence with nature. In 1943 for example, some of the Cherenganyi ‘*Dorobo*’ once more attempted to return to Kapolet Forest reserve in spite of the police raid and severe penalties imposed on them. The then Assistant Conservator of forests instructed the District Commissioner to shift them once and for all from the forest into West Suk

⁶ Mr. Booth’s report submitted to the Land Commission of 1932.

⁷ Chairman of the Carter Land Commission, comments on Sengwer land grievances through their headman Arap Kamussein and Kipsaga Arap Kabelio, on 2nd October 1932

⁸ Kenya Land Commission 1932

⁹ Monthly intelligence reports for November 1932 and march 1939 from district commissioner’s office at Tambach to PC Rift valley province dated 5th December 1938 and 8th April 1939 respectively.

Reserve¹⁰. According to the District Commissioner, Mr. Adams, more land was being taken away thus denying the Sengwer land of which they were making use.¹¹

The following are some of the Sengwer ancestral lands that were converted into forest:-

- | | | |
|--------|---|--------------|
| (i) | Kapkanyar | 70,000 acres |
| (ii) | Kipteber | 57,000 acres |
| (iii) | Kapolet | 10,800 acres |
| (iv) | Chemurgoi | 9,800 acres |
| (v) | Sogotio | 8,800 acres |
| (vi) | Kerer | 5,340 acres |
| (vii) | Kaisingor | 2,680 acres |
| (viii) | Empoput | 8,000 acres |
| (ix) | Other Forests within Kitale Municipality. | |

Part of Sengwer ancestral land in Trans Nzoia was converted into a game park. It is now known as Saiwa Swamp National Park. This was and is still a home for wild animals. This area was one of the most prestigious hunting areas of the Sengwer people. Immediately, after independence most of the land left by the Europeans was given out as settlement schemes to groups and individuals while the remaining portion was made Agricultural Development Cooperation (ADC) farms run by the government. After independence Sengwer territory continued to be lost to other groups such as the Marakwet, Kisii and Kikuyu.

4.1.6 Forced Assimilation and Loss of Identity

Assimilation policies and lack of recognition of separate and distinct identities of hunter-gatherers in Kenya began in colonial days, when it was decided that they be absorbed into larger ethnic communities¹². In 1932, Mr. A.C. Hoey giving evidence before the Kenya Land Commission had an idea “of amalgamating the Elgeyo and Marakwet and Cherenganyi (Sengwer) into one tribe”¹³ without the right to identity, right to profess and enjoy their cultural values and traditions. While other communities were given native reserves, Sengwer community was not considered. The colonial administration also promoted livestock keeping and potato planting for purposes of transforming the hunter/gatherer livelihood systems of the Sengwer and in so doing undermined Sengwer culture, language, customs and laws. This strategy was also aimed at getting the Sengwer out of the forest. The post-independence government also failed to provide for a classification of hunter-gatherers as separate groups, and by imposing a ban on hunting in 1970s, the independent government imposed more changes of the livelihoods of the Sengwer.

4.1.7 Land tenure among the Sengwer (past and present)

Discussions with the community revealed that only about 70 per cent of them have partial ownership of land, having been issued with allotment letters by the government. The area

¹⁰ Letter from Assistant Conservator of forests to District Commissioner Kitale dated 7th January 1943

¹¹ Mr. C.H. Adams, District Commissioner, writing to the Provincial Commissioner,

¹² Adams submission to the Land commissioner 1932

¹³ Mr. A.C. Hoey giving evidence before the Kenya Land Commission on 3rd October 1932

around Kapolet forest is still gazetted as forest land not available for settlement. Those in Emboput forest are literally squatters with no papers which exposes them to regular evictions. Sengwer resettlement along the Kapolet and the Emboput forests face more problems associated with land ownership. The Sengwer in Talau location in Kapenguria (West Pokot district) are relatively better off, in that they have ownership documents and have relatively made more investment on their land (KARI 2005).

4.1.8 The current status of Indigenous Sengwer

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

- The incomes of indigenous peoples are only about one third of those of other rural Kenyan households.
- Most of them are landless, and lack legal access to natural resources or other assets for income generation.
- They are ill equipped to defend even the informal, de facto access that they retain to the remnants of their 'homelands' from encroachment or restriction by outside authorities and interests
- They do not have the institutional capacity or degree of empowerment that will enable them to benefit from reform processes in the forestry, water and lands sectors which are intended to give more say to communities in the management of resources that are central to this project.
- Few indigenous people hold positions in government, even at junior levels (such as chiefs and sub-chiefs).
- Face further physical and economic displacements from their lands and forests traditionally utilized by them as a source of livelihood and basis for their cultural and social survival;
- Lose all legal access to natural resources, which are an important source of livelihood and basis for their cultural and social system;
- Continue to be harassed by cattle rustlers;
- Become even more marginalized in the society and become alienated from national life;
- Receive less support from governmental services;
- Have less capacities to defend their legal rights;
- Become or remain dependent on other ethnic groups;
- Lose their cultural and social identity;
- They have little representation even as local government councilors, let alone at higher political levels, and are thus administered and represented by members of non-governmental groups (NGOs)

Chapter Five: Potential Positive and Negative Impacts of the WaSSIP on the Sengwer

In what follows, the impacts to the Sengwer which might result from the WaSSIP are discussed to develop a planning framework of issues to be considered during the development of any specific Indigenous Peoples Plans (IPPs). This would help ensure that negative impacts of the project are mitigated and positive impacts as much as possible enhanced based on the principles of free, prior and informed consultations with the Sengwer.

5.1 Introduction

The LVNWSB which is implementing WaSSIP in Western Kenya reported that potential activities may impact the water supply and catchment of communities with indigenous populations. The water supply catchment area borders the Cherengany Hills which include the Sengwer traditional territories of Kesogon, Kapenguria, Kapolet, Kapcherop and Kapsowar communities. Past experiences with other donors working in the area, specifically the German Development Bank (KfW) has shown the attachment and feelings of ownership of the water resources in the Cherengany Hills catchment areas by Sengwer communities.

The potential positive and negative impacts were identified with the help of the consultancy assignment engaged to help prepare the IPPF. In a large part, consultations were carried out in the Sengwer traditional territories¹⁴. Consultations were held with the Sengwer in Kapolet, Kapcherop and Kapsowar in July 2007 and in Kesogon and Kapenguria in September 2007

5.2 Potential Positive impacts as expressed by Sengwer

The following views were expressed as being potential positive impacts by the stakeholders in different areas visited:

- Water will boost local economic development
- Increased numbers of people with access to safe drinking water
- Reduction in water-borne diseases
- Improved nutritional status
- Enhanced food security
- Reduced vulnerability levels
- Reduced poverty levels
- Improved levels of cleanliness, sanitation and hygiene

¹⁴ It should be noted that these consultations were carried out in locations, including in areas inside and outside the project area and/or the jurisdiction of LVNWSB. The locations were selected in preliminary consultations with the Sengwer, in order to gather as much insight as possible to the issues affecting the Sengwer community and the potential impacts of a water and sanitation project within their territory. This will serve to better inform the development of site/location specific Indigenous Peoples Plans (IPPs) for the project.

- Reduced work loads and distances by women to the river to fetch water
- Time freed from fetching water for women is re-directed to other development initiatives
- Better access to water by milk cows boosting household income and household food security
- Grand children will no longer be left in the care of grandparents when women and girls go to fetch water
- Following agreements with the Sengwer, availability and access to social services and amenities by the Sengwer will be enhanced

5.3 Potential Negative impacts as expressed by Sengwer

Indigenous Peoples met identified a set of negative project impacts that included:

- Concentration of people and livestock around constructed water points
- Loss of water rights for the Sengwer
- Increased encroachment on Sengwer territory by outsiders who will be attracted by water availability
- Increase in soil erosion
- Loss of biodiversity
- Payment for water (which is currently fetched by women free of charge)
- Increase of mosquitoes – so remedial measures need to be put in place
- Wildlife exists and would destroy the water works
- Water source needs to be taken care of
- No dam provision
- No water jars or tanks in places where water is rationed

5.4 Specific Key Impacts Identified by the Sengwer during consultations

Several key concerns were revealed during the consultations with the Sengwer. These, together with potential mitigation actions are described as follows:

5.4.1 Increased incidences of water-borne diseases

An officer from the LVNWSB regretted that LVNWSB was covering a wide area and as a result there would be minimal funds given to existing community-run rural water supply associations with regard to water treatment. This was in reply to a question raised by one of the members of a water supply association who wanted to know if the District Water Officer (DWO) would give chemicals for water treatment. LVNWSB informed that the DWO would provide such chemicals for water treatment in the short run while the community looks for money to buy chemicals in the long run. This is likely to negatively impact on the local water service providers who may not be able to carry on water treatment, operation and maintenance resulting in increased incidences of water borne diseases. Those present at the various meetings expressed concern over the possibility of increased malaria cases.

Potential actions: Water service providers (WSPs) appointed by LVNWSB should include community stakeholders in the ownership and decision making to encourage

the community to decide on self-management and financing of the operations and maintenance of their own infrastructure. LVNWSB could also request for GOK assistance to assist operational expenses in areas where WSPs are not able to cover all its operating expenses.

5.4.2 Lack of or delayed compensation for loss and damages

The issue of compensation featured in two main ways. The Sengwer have asked that they claim compensation for water which is being taken away from their ancestral territory for use elsewhere (mainly in urban areas). The community wants their homes and other institutions like hospitals supplied with water, and where such facilities did not exist they are to be constructed. This would act as a form of compensation since they were not going to benefit directly from the water project that was to flow to another direction in the case of Kapolet. This is the only way the community will benefit from the project. The LVNWSB is also expected to train some people as part of capacity building which would assist in water treatment and maintenance of works and cost would be covered by the project. The other form of compensation relates to land taken away to facilitate construction of a water storage facility at Kapsowar.

Potential actions: All compensation related to the WaSSIP will be carried out in accordance with provisions of the Resettlement Policy Framework (RPF) which has been adopted by the GOK in September 2007¹⁵.

5.4.3 Women Participation in Decision making processes

At a previous meeting held with the Sengwer in preparation of the KfW project, Mr. Dux of KfW complained that there were only two or three women from the Sengwer Delegation as opposed to thirty or so men. From records of the Kapsowar Water management committee held on 20th December 2005 and 8th May 2006 it would seem that either women do not participate in these meetings or they are not included in management of water supply services.

Potential actions: The Ministry of Water and Irrigation (MWI) has instructed all WSBs to implement the GOK policy on gender to increase the participation of women in the water sector. The GOK policy on gender states that it is the right of women, men, girls and boys to participate and benefit equally from development initiatives. WaSSIP will take note of this policy and take it into account during project implementation. The improvement of water supply facilities is expected to lessen the burden on women who traditionally are responsible for fetching water. Increased participation of women in committees and meetings would enhance their voice¹⁶.

¹⁵ Note that WaSSIP is **not** expected to involve physical relocation of Indigenous Peoples. However, in the unlikely event that this option may be needed, the project will strive to avoid it with alternatives and in any case will not carry these out any relocation without a free, prior and informed consultation process. The project recognizes that the physical relocation of Indigenous Peoples is particularly complex and may have significant impacts on their identity, culture and customary livelihoods.

¹⁶ It should be noted that the consultations carried out as part of the development of this IPPF went out of its way to encourage women's participation. The suggestions from the Sengwer on how to maximize women's participation were taken into account in the choice of consultation locations. In consultations with them,

5.4.4 Increased marginalization and exclusion of the Sengwer

The Sengwer have demanded representation in the LVNWSB. However, the officers of LVNWSB have stated that it is the prerogative of the Minister for Water and Irrigation to appoint members to the board. This means that the Sengwer will be further marginalized in the affairs of the LVNWSB and consequently in the overall decision making processes of the WaSSIP. On the other hand, the District Officer 1 intervened and said that community representation would be enhanced at such institutions like the Constituency Development Fund and in activities such as planting trees and conserving them. The Sengwer are minorities in the areas they occupy making it difficult to elect their political representatives such as a Member of Parliament. In other areas they have been assimilated into either the Marakwet or the Pokot. This explains why the Sengwer of Kapenguria and Kesogon take the issue of representation very seriously. In 2002, the Sengwer wrote a memo to the Chairman of the Constitution of Kenya Review Commission in which they stated "...we need a district to enjoin our tribe from West Pokot, Marakwet and Trans Nzoia for us to enjoy the basic and other rights as other Kenyans. We number an estimated population of over 70,000 people and therefore qualify for a district." In 2005, the Sengwer made similar demand contained in the Special Case Memorandum to the Electoral Commission of Kenya for creation of Cherenganyi District with one constituency. In separate memoranda the Sengwer wrote to the president in 2006 and 2007 in which they asked for their own district.

WaSSIP supports projects identified under the Nzoia Cluster Phase III comprising 6 urban and 20 Rural Growth Centers (RGC). RGCs are rural communities with an increased population density selected on aspects like health and socio economic situation of the target groups, the estimated per capital investments for the provision of water and sanitation, access, operation and maintenance requirements. Five of these schemes are without existing piped Water Supply Systems, 8 are currently operated under a proposed WSP and 7 are typical rural community-managed schemes. Water shortage is typical in the rural areas which hampers community development potentials especially among women and youth. Two of the RGC, Kapsowar and Kapcherop, which fall in Sengwer territory, will also serve the rural communities. It is necessary to ensure that the project does not exacerbate the marginalization of the already disadvantaged Sengwer community especially women and youth.

Potential actions: There are two main ways of addressing marginalization and exclusion. One is by adjusting the budget in order to allocate more funds towards rural-based water supply. The other is through adequate consultation, involving the various social categories in Sengwer community, should be carried out in order to mitigate against further marginalization and exclusion of the Sengwer in development processes. Lack of proper consultation between the project implementers and the Sengwer is likely to lead to further marginalization because in the past, the Sengwer

the Sengwer appears receptive to the increased participation of women in the decision making process in the provision of water services in their areas.

have not been consulted over a number of government initiatives such as forest gazettement and annexation of their land for other economic ventures.

5.5 Project Impacts as expressed by Sengwer and Possible Actions to be considered in developing an Indigenous Peoples Plan (IPP)

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

<i>Impact</i>	<i>Possible Actions</i>	<i>Responsibilities and Issues</i>
	<ul style="list-style-type: none"> encroachment Incorporating CSOs in NRM and involving the Sengwer in use of indigenous knowledge systems to enhance conservation of biodiversity, forests themselves, plants, bees and wildlife 	<ul style="list-style-type: none"> LVNWSB will inform and liaise with NGO's active in promoting indigenous knowledge operating in the area.
Land use and border conflicts	<ul style="list-style-type: none"> Ensure that any impacts of the project on specific land areas requiring compensation (or any resettlement) are dealt with in accordance with free, prior and informed consultations. Ensure adherence to the project IPPF and Resettlement Policy Framework. Resolve conflict by involving relevant authorities 	<ul style="list-style-type: none"> LVNWSB The general issue of land conflict within the Sengwer territory is an ongoing issue not caused by the project. The resolution of these conflicts is not within the mandate of LVNWSB but LVNWSB should inform any such conflicts in the project area to the relevant authorities.
Soil erosion	<ul style="list-style-type: none"> Re-vegetation of exposed surfaces; lining of water-receiving surfaces; mulching of vulnerable surfaces. Ensure adherence to the projects Environmental and Social Management Framework (ESMF) 	<ul style="list-style-type: none"> LVNWSB (as part of subproject design) LVNWSB will liaise with the WRMA and the Forest Department, MNR who are responsible for this aspect.
Surface/ground water pollution	<ul style="list-style-type: none"> Provision of adequate wastewater disposal Provision of sewerage treatment where system size warrants Percolation tests and re-design liquid waste disposal system Ensure adherence to the projects Environmental and Social Management Framework (ESMF) Transportation and composting vegetable wastes Non-vegetable solid waste taken outside the area/forest either re-cycling or safe disposal 	<ul style="list-style-type: none"> LVNWSB Solid waste management is not a direct impact from the project and not within LVNWSB's mandate. LVNWSB will inform and liaise with the local authorities
Loss of habitat and biodiversity	<ul style="list-style-type: none"> Re-vegetation with indigenous plants Ensure adherence to the projects Environmental and Social Management Framework (ESMF) 	<ul style="list-style-type: none"> LVNWSB (as part of subproject design) LVNWSB will liaise with the WRMA and the Forest Department, MNR which are responsible for this aspect.
Inadequate participation of women in decision making processes on issues relating to water	<ul style="list-style-type: none"> More involvement of women in decision making in matters relating to water because they are the managers of water and household Enhance the capacity of women through exposure and leadership training 	<ul style="list-style-type: none"> LVNWSB The Sengwer
Enhancing the power of men over women (lack of Gender mainstreaming and	<ul style="list-style-type: none"> Increase funding to expand water supply into areas occupied by the Sengwer which will also benefit women and children by reducing time 	<ul style="list-style-type: none"> LVNWSB The Sengwer

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

Chapter Six: Communication between the Sengwer and LVNWSB

Discussions and consultations during the preparation of the IPPF point to the lack of adequate communications and consultations in the past. In what follows, the results of these discussions and consultations are described and a communications framework to be utilized at each stage of project preparation and implementation is developed.

6.1 Information disclosure and public consultation with the Sengwer in the past

Past experience with other donors active in the area, specifically KfW has shown the attachment and feelings of ownership of the water resources by Sengwer communities who have previously demanded to be consulted before exploitation of their water. In a memorandum to the LVNWSB dated July 2006, the Sengwer stated “We strongly object to the advertisement of May 3rd 2006 by LVNWSB for the abstraction of our main natural resources without consultations.” The memorandum resulted in an agreement between KfW and the Sengwer in which KfW committed to the provision of a health facility, a primary and secondary school, supply of electricity, rehabilitation of existing Water Sanitation and Environmental Project, construction of Chepnga Water project, gravelling of Munyaka-Kapolet Road, the Financing of Sengwer Community Forests, water catchments and water users associations.

During preparations for the Nzoia Cluster Project under KfW, some visits were made by the project personnel to the Sengwer areas. According to the LVNWSB four (4) consultative meetings had been held between them and the Sengwer people and their representatives (see minutes of 2nd July 2007). However, according to the Sengwer communities, no consultation had ever taken place (see minutes of 4th July 2007). According to others, some information was provided about the new Water Act but they stated that this did not constitute consultation. Other members of the community said that they were informed about the water but were not given a chance to respond (Annex 6).

The Sengwer were unanimous that no proper consultation took place. The interaction between the Sengwer and the officials of LVNWSB had been rough and insensitive to their specific needs and situations. If there were consultations, therefore, they were inadequate. There was an incident whereby a surveyor accompanied the LVNWSB team, and when he arrived at the site he started measuring the area without any discussion taking place with the Sengwer community. When he was asked what he was doing he responded that he was doing something that would benefit them.

When in another incident they were asked to write their names down on a piece of paper, they declined to do so since they were suspicious that their names were going to be used to prove that they agree with what the officials were doing vis a vis the water project. This goes to demonstrate the poor communication that exists between LVNWSB and the Sengwer. The tendency for a top down approach to interaction with the Sengwer community has tended to hinder possibility of appropriate consultation and has created suspicion and resistance. At the same time, public addresses or *barazas* often used by

government officials to transmit messages to communities are essentially monologues and cannot amount to consultations. They do not allow for negotiation, questions or responses. A strong need for more consultations was identified and it is recommended that the project should ensure this consultation is done in order to comply with the safeguard OP 4.10 and ensure project acceptability as well as its sustainability and security.

6.2 Consultations during the preparation of the IPPF

The consultant assigned to help prepare the IPPF visited four Sengwer areas in order to ensure that the largest possible groups of Sengwer are consulted, including the opportunity for more women to participate. During the visits, the consultant sought to know how much the residents knew of the WaSSIP and other donor projects and how the information was transmitted and whether adequate consultation took place. From the onset, the Sengwer demanded to be consulted about this project. This section is an assessment of responses received about the manner in which information about the WaSSIP and other donor water projects was transmitted. Verbatim reporting preserves the authenticity of the message.

Kapsowar was the first area visited. In this area, the residents are mainly Marakwet and a few Sengwer have essentially been assimilated into the Marakwet. They are the only group visited that had some information about the project. However, they too were simply informed, rather than consulted, as evidenced by the questions they were raising about the water project, about meters and about payment. One participant in the meeting put it this way: “We were told about the project, but we were not given a chance to respond.” It is apparent that a public *baraza* system was used to inform the public about the water project without expecting responses and any questions people might have had were left unanswered.

In Kapcherop, there was a mixture of the Sengwer and the Marakwet but relations seem to be tense. They were not told about the project nor were they consulted. The Sengwer present in the meeting were eager to ensure that their voices are heard, clearly a reaction to exclusion caused by the fact that although the area originally belonged to the Sengwer, the non-Sengwer have largely taken over the area and have occupied all political positions such that the Sengwer have no space to air their grievances. The meeting provided an avenue to express displeasure with the status quo. Other incidents such as the registration of an organization in the name of the Sengwer without the consent of the Sengwer also heightened the tension.

These are their reactions to the question about whether they had been consulted by LVNWSB, how and when. “The first time they came we didn’t understand each other. They did a survey without us. They employed people to clear the place without us knowing what was going on. They put a board “buffer zone” on our land and it puzzled us since we fear of being displaced. They said no one will be displaced and that we will benefit”. .. “We complained and they came back to talk to us. However, there was no proper consultation - they talked with County Council and other stakeholders and Sengwer only saw them when work was about to start. We (Sengwer) were hustled and

they later called us to Kitale. Since we had no strength, they continued to do what they wanted. They were talking as though they were using force on us. It was forced consultation. They gave us paper to write our names but we did not write because we were worried that they were going to use them to say we agreed on what they said about water”. “If the people of Bungoma are the ones to get the water will they be paying for it? If so should the money not go to those tending the trees so that water continues to flow? Some percentage of revenue from sold water should be given to Sengwer. But when they raised this issue they were told that it was a loan that had to be paid back...” and so on and so forth.

In Kapolet the majority of the residents are the Sengwer. It is the area where the cultural centre (Sengwer Cherangany Cultural group) and guest house is located, and these provide security and a sense of belonging.

Few women were present in all meetings. One meeting had only two women and another had four out of over 60 men. It is apparent that, although water is a concern of women and it forms an important and frequent part of women’s domestic chores, women played no role at all in this water project in all three locations. This has to do with the marginalization of women in decision-making processes, both at the official/governmental levels and at the community and household levels. The youth on the other hand were found to be very active and vocal in matters relating to the water project. Indeed, in all the three areas visited, it is the youth that formed the majority of participants. Because of poor communication and inadequate consultation, many questions relating to the water project had not been answered. This came out from the interviews as well as from minutes of previous meetings. One such question is one about whether or not water will be paid for and whether meters will be supplied.

Kapenguria and Kesogon were the last places to be visited by the consultant in September 2007. The Sengwer in these places stated that they had not been consulted about the project. They emphasized the need to be compensated for their water. They stated that the Forest and Rivers are theirs. They emphasized to be helped to educate their children and to be funded for development projects. The Sengwer communities in these areas border the Pokot and Marakwet who are known for cattle rustling. Their main concern was security especially because the Pokot steal their cattle and kill their people. In particular they asked for security against cattle rustlers.

6.3 Consultations to-date and required.

Meetings have been held between the Sengwer and the LVNWSB. However, the Sengwer refuse to acknowledge such meetings as constituting consultations. A staff member of the LVNWSB also confirmed that there was a time they held a meeting with some people, but the Sengwer told him that he met with only “strangers”, not the members and the Sengwer. They confirmed that three meetings were held at Kapsowar, but none of them were with the Sengwer. In order to avoid such incidents and reduce cases of misrepresentation, it is important to ensure that an agreed upon channel of communication is followed when interacting with the Sengwer and other indigenous peoples. The consultant also held consultations with the Sengwer which brought together

the Sengwer community, LVNWSB and the Provincial Administration. The issues raised during these meetings are equally important. In order to make the project socially acceptable and ensure its long term sustainability, there is a need for many more free, prior and informed consultations in line with the IPPF.

6.4 Proposed communications framework

A good communication framework between the Sengwer, the provincial administration and LVNWSB will promote efficient implementation of the project. A communication framework needs to be developed that will satisfy the criteria of free, prior and informed consultation in line with the IPPF. The stakeholders should hold frequent meetings to iron out pending issues and grievances. During these meetings, LVNWSB should ensure that relevant information relating to the project is communicated in a clear and transparent manner particularly to the indigenous Sengwer particularly since they lack political representation. The Sengwer suggested that communication should be with their council of elders as their own representatives from Kapcherop and Kapolet, and these could act as liaison between LVNWSB and the community to facilitate appropriate communication about the water project and other development issues touching on their livelihoods. In every case, a third of those elected as representatives should be women and youth. The meetings should address most of the pending grievances which the Sengwer have put forward or channel them through the correct government machinery.

6.5 Proposed Communications Framework

The implementation of the IPPF and the communication between the project and the Sengwer will be governed by a steering committee, which should meet at least once every three months during the initial two years of WaSSIP. Meetings can be held twice yearly during the subsequent years of WaSSIP (subject to the agreement of the committee). Consistent with the above, the committee should consist of:

- 5 representatives from the Sengwer;
- 1 representative from the provincial administration;
- 1 representative from the LVNWSB.

The LVNWSB officer, who is assigned as coordinator, will be in charge to inform the members on the progress made, information received, activities and meetings planned. The elected representatives from the Sengwer would act as liaison between LVNWSB and the community to facilitate appropriate communication about WaSSIP and other development issues touching on their livelihoods. The committee meetings should address most of the pending grievances which the Sengwer have put forward or channel them through the correct government machinery.

Where a subproject location has been identified, the representatives from the Sengwer on the committee would serve to identify a group of Sengwer representing the local community in the project locations. The LVNWSB will interact with the identified group

of Sengwer to develop an agreed Indigenous Peoples Plan (IPP) to be implemented in the subproject location. Construction of subproject will not commence until the IPP is agreed and its implementation started.

Following the general guidelines for a successful communication outlined below, the representatives should remember that they are representatives of the people and due to that feed back all information they receive and consult their communities as often as possible and prior to any major decisions. The IPPF creates a level playing field for the indigenous peoples to decide themselves how they use this communication framework to voice their needs and interests.

6.6 Principles of Intercultural Communications

Some basic principles for intercultural communication should govern the communications framework between the LVNWSB, the Sengwer and the provincial administration. All actors should

- **aim to share control and responsibility**, even if those, one should share control with, are perceived as not qualified, inexperienced and driven by different objectives. One will have to work with them anyway, so one should try to increase their capacities and encourage them to participate actively to speed up processes.
- **monitor and evaluate all the time**. Social safeguard instrument]s such as this IPPF are new tools in Kenya, so it is necessary for all actors to assist the implementing structures to achieve the common goal of equal opportunities, poverty reduction and biodiversity conservation. It is not only the responsibility of the LVNWSB to ask the indigenous peoples in all processes for their opinion and invite them to participate in the decision making process, but also the responsibility of the indigenous peoples to contribute as much as possible to the implementation of the IPPF and the WaSSIP at large.
- **keep people informed, listen to what they say**. No one was born with a better knowledge than others and everybody has something to say. Since sustainable land and resource management affects everybody and is based on the contribution of everybody, everybody needs to be informed so that they can become involved in all kinds of activities.
- **be prepared to learn new ways of doing things**. Since sustainable land and natural resource management is based on the cooperative management of all people in the project area, everybody has a say and is able to contribute something. To observe how other people handle issues is always an advantage, because by learning new ways of doing things, one is better prepared to address new challenges in the future and to understand the actions of others.
- **be totally professional and committed at all times**.
- **not allow people to use the project for selfish reasons**. There is always the risk that certain people take over a project to personalise the benefits related to it. These

problems mostly occur when people are not fully involved in what is going on, don't come to meetings, don't listen to talks and sign documents without reading them. As long as one rests silent or passive, those in charge might do what they want. So it is everybody's responsibility to take part in the decision making process.

- **be patient, but demand commitment and effort.** The communication between different groups especially in rural areas is not an easy task. Due to the limited number of people working on the subject and in the area, one might have had bad experiences in the past. One should leave bad memories behind and presume that the others have learned as one has also increased its capacity.
- **respect beliefs and customs.** Sustainable land and natural resource management and the IPPF are focusing on the cooperative management of natural resources and the sustainable utilisation of cultural and biological diversity for the greater good of all. A first step to sustain diversity is the respect for the different beliefs and customs.

6.7 Stakeholders Analysis in the project operational areas

The communications framework should also take into account the various stakeholders within any proposed project locations, including the local community and other stakeholders who may need to be consulted. A Stakeholder analysis was identified in the project area and below is a table showing what they are and what interest they have in the water project.

S/n	Stakeholder	Interest	Remarks
1	Ministry of Water & Irrigation	Policy, regulations, standards	-
2	Water Resources Management Authority	Sustainability of natural resources especially water	
3	Water Service Regulatory Board	For regulation of water services	-
4	Kenya Wildlife Service	Wildlife	Should monitor wildlife trends in the area
5	LVNWSB	Project governance issues	
6.	Water Services Boards	Water management	
7	Water Service Providers	Water supply	
8	The World Bank	Funder/lender	
9	German Development Bank (KfW)	Funder/lender	
10	Faith-Based Institutions	Water Users	
11	Public Institutions	Water users	
12	NGOs/CBO/CSO	Promoters of Sengwer rights to water/water users	
13	Sengwer Community	See themselves as owners of water resources in area and protectors of water source yet they are excluded from enjoying water and other social amenities	Expect to be given priority in service delivery as compensation for loss and for caring for water sources they should be remunerated
14	Religious Institutions in area	Water use and well being of their followers	
15	Gender and age groups	Water users/maintenance of works	Women are main beneficiaries, but underrepresented in water meetings. Youth are over represented

Chapter Seven: Indigenous Peoples Planning Framework

The Indigenous Peoples Planning Framework develops measures to ensure that all indigenous peoples, who are affected by the projects, receive social and economic benefits that are culturally appropriate, including measures to enhance the capacity of all stakeholders to achieve this. It also addresses the risks for indigenous peoples identified in Chapter 5 and develops on the basis of the mitigation strategies outlined there, actions to avoid, minimize, mitigate, and/or compensate these adverse effects.

The main actors of this IPPF are the Lake Victoria North Water Services Board (LVNWSB), the Ministry of Water and Irrigation (MWI), the indigenous peoples' organizations, and the indigenous peoples themselves.

During the first three months of the Effectiveness of WaSSIP, LVNWSB will coordinate the setting up of the steering committee in consultation with the Sengwer in Kapcherop and Kapolet. LVNWSB will keep the committee informed of all subprojects under Component 3 WaSSIP. All rural water and sanitation subprojects will be screened to identify their association with the water supply and catchment of Sengwer communities bordering the Cherangani hills which include the Sengwer traditional territories of Kapcherop, Kapolet, Kapenguria, Kesogon, and Kapsowar communities. These associations could be due to (i) their location within the Sengwer traditional territories or (ii) their sourcing of water from or discharge of wastewater to the Sengwer traditional territories. The steering committee will sensitize all stakeholders in general and the affected indigenous peoples' communities in particular. As this will involve all the indigenous peoples' communities in the operational areas, the IPPF should be further discussed in detail and – in case the need arises – amendments suggested to the steering committee.

For subprojects which do not in the first instance gain broad support from the affected indigenous peoples, the steering committee will search for mutually acceptable solutions. The Indigenous Peoples Plan for the subproject will be prepared to assist and reflect transparent decision making.

WaSSIP will apply several mechanisms to ensure that indigenous peoples received culturally appropriate benefits, including: (i) support and capacity building will be provided to IP communities on IP issues pertaining to water supply and sanitation, orientate IP communities of sector policy and instruments, preparation and monitoring of IPPs; (ii) ensuring communication and consultation between the IP communities and service provision institutions through the institution of a steering committee involving the IP communities, LVNWSB and the provincial administration, (iii) providing the IPs full opportunities in decision making and management of WSS service provision in their own areas; (iv) providing for the inclusion of IPs (through consultation and participation) in the development of water services infrastructure; and (v) expanding access of clean and reliable water for IPs.

A detailed IPPF action plan to develop the IPP for a subproject area is provided in the table overleaf. This action plan is consistent with the IPPF of WKCDD/FM and NRM.

Indigenous peoples plan of the Kenya Water and Sanitation Services Improvement Project					
Issue	Activity	Responsibility	By When	Cost in US\$	Indicators
1. Training and sensitisation of key actors	<ul style="list-style-type: none"> • Training of staff from relevant government structures (LVNWSB, MWI and provincial administration) and IP Organisations (IPO) 	Social Safeguard backstopping mission (SSBM)	3/2008	10,000	<ul style="list-style-type: none"> • The beneficiaries of the training are able to implement the IPPF
2. Screening	<ul style="list-style-type: none"> • Carry out screening of selected subprojects • Carry out training and providing backstopping 	Steering Committee (SC) SSBM	3/2008 (start)	10,000 5,000	<ul style="list-style-type: none"> • Subprojects are screened for IP-factor
3. Carry out development of IPP (as needed)	<ul style="list-style-type: none"> • Carry out IPP in subprojects identified to include IP as a factor • Carry out training and providing backstopping 	LVNWSB / Community appointed by SC SSBM	3/2008 (start)	20,000 5,000	<ul style="list-style-type: none"> • The IPPs are accepted by the IP, LVNWSB, the GOK and the World Bank
4. Orientation of IPs on water sector policies and instruments	<ul style="list-style-type: none"> • Training of IPs in project areas on the Water Act 2002, roles and responsibilities of various institutions including community groups • Training of IPs on water services dispute resolution mechanisms 	LVNWSB Provincial administration Indigenous Peoples Organisation (IPOs) NGOs & CBOs	12/ 2008	16,000	<ul style="list-style-type: none"> • Number of people trained in relevant policies • Number of complaints taken to LVNWSB, WSRB and WAB or resolved at local levels
5. Ensure access of clean and reliable water for IPs	<ul style="list-style-type: none"> • Design water projects to serve Sengwer community and their livestock 	LVNWSB IPO	12/2008	35,000	<ul style="list-style-type: none"> • Number of people with access to water • Proximity of water points to communities • Number of animals accessing water • Number of communities trained
6. Establish recognition of IPs in the project area	<ul style="list-style-type: none"> • Popularising the concept of Indigenous Peoples in project area. • Preparation of implementation plans as per OP 4.10 during project implementation • Training on the best practices and techniques for working with IPs • 	LVNWSB Provincial administration IPO	12/ 2008	30,000	<ul style="list-style-type: none"> • The beneficiaries of this training are able to articulate criteria of self-identification of IP and importance of protecting rights of IPs and involving them in all decision making process
7. Provide for IPs opportunities to be full and effective managers of services	<ul style="list-style-type: none"> • Recognition of the principles of participation of IP communities in project management • Building the capacity of IP communities to be part of the effective water services management processes 	MWI LVNWSB WSPs IPO	12/2008	30,000	<ul style="list-style-type: none"> • Number of people from the Sengwer community involved in management of water services • A growing number of IPs involved in policy-making

Indigenous peoples plan of the Kenya Water and Sanitation Services Improvement Project					
Issue	Activity	Responsibility	By When	Cost in US\$	Indicators
in their own areas	<ul style="list-style-type: none"> • Full and effective participation in the governance and managerial structures of WSPs in own areas • Train IP in management of water services • Train community in corporate governance 				<p>processes</p> <ul style="list-style-type: none"> • Number of training programs and trainees • Number of bodies where IPs can participate • Number of meetings between IPs and water sector institutions • Number of agreements concluded
8. Ensuring inclusion of IPs, consultation and participation in the development of water services infrastructure during project implementation	<ul style="list-style-type: none"> • Training IPs in basic technical skills in operation and maintenance of water systems • Affirmative action to give space to IPs to ensure that IPs get opportunities for employment as skilled or unskilled staff during project implementation 	LVNWSB IPO	12/2008	10,000	<ul style="list-style-type: none"> • Percentage of Indigenous peoples participation in the project implementation activities • The number of trainings held • Existence of a framework for participation in project planning, design and implementation
9. Monitoring of IPP	<ul style="list-style-type: none"> • Train the IPs and their CSOs in participatory impacts monitoring to ensure compliance 	LVNWSB IPO	12/2009	15,000	<ul style="list-style-type: none"> • Regular, credible reports produced on key indicators and milestones of the IPPF

7.1 Grievance Processes

As the communication is mostly channeled through the projects and government structures, a situation might arise in which certain information are not communicated or not adequately addressed. In that line, the provision of accessible procedures to address grievances by the affected indigenous peoples' communities arising from the implementation of the projects is an important element to enhance and sustain the quality of the services and communication. In selecting a grievance structure, the indigenous peoples should take into account their customary dispute settlement mechanisms, the availability of judicial recourse and the fact that it should be a structure considered by all stakeholders as an independent and qualified actor. As it should be a single organization for all indigenous peoples' communities affected by the projects, the Kenya National Commission on Human Rights (CVS Plaza, Kasuku Rd off Lenana Rd; P. O BOX 74359-00200; Tel: 020-2717900-08 / 282717256; Mobile: 721-207320; Fax: 020-2716160; Email: haki@knchr.org) seems to be an appropriate grievance structure as it is present in all districts and well known by most people.

7.2 Monitoring and Evaluation Mechanisms

The monitoring and evaluation of the IPPF implementation as well as the implementation of the projects in the operational areas inhabited by indigenous peoples is an important management tool, which should include arrangements for the free, prior, and informed consultations with the affected indigenous peoples' communities.

The implementation of the participatory impact monitoring (PIM) at WSB level will be an important element to assist the various structures to fine-tune their intervention in view to maximize culturally appropriate benefits and provide space for the indigenous peoples' communities to voice their concerns.

The PIM will be based on the data gathered by the screening process, the organizations of the indigenous peoples, the relevant governmental structures (lands, forests, development and social) at district level etc. It will further use the initial sensitization and training of the indigenous peoples' communities. As this is a participatory process, the selection of the facilitator is of course the decision of the communities, but it is advised to choose people who are able to elaborate on the basis of the PIM reports, which reflect the situation on the ground in a transparent and plausible way. The PIM report should be produced before June 30th of the years and then be returned to all indigenous peoples' communities for feedback etc. before being handed over to the steering committee before August 30th. In September of each year the steering committee will elaborate an overall evaluation and prepare recommendations on how to fine-tune the IPPF further. The PIM report, the IPPF evaluation and the recommendation should be communicated to all stakeholders before October 30th through the project web page, communicated to the World Bank and the interested public.

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ANNEXES

Annex1: OP. 4.10: Indigenous Peoples

Note: OP and BP 4.10 together replace OD 4.20, *Indigenous Peoples*, dated September 1991. These OP and BP apply to all projects for which a Project Concept Review takes place on or after July 1, 2005. Questions may be addressed to the Director, Social Development Department (SDV).

1. This policy [1] contributes to the Bank's [2] mission of poverty reduction and sustainable development by ensuring that the development process fully respects the dignity, human rights, economies, and cultures of Indigenous Peoples. For all projects that are proposed for Bank financing and affect Indigenous Peoples,[3] the Bank requires the borrower to engage in a process of free, prior, and informed consultation.[4] The Bank provides project financing only where free, prior, and informed consultation results in broad community support to the project by the affected Indigenous Peoples.[5] Such Bank-financed projects include measures to (a) avoid potentially adverse effects on the Indigenous Peoples' communities; or (b) when avoidance is not feasible, minimize, mitigate, or compensate for such effects. Bank-financed projects are also designed to ensure that the Indigenous Peoples receive social and economic benefits that are culturally appropriate and gender and intergenerationally inclusive.

2. The Bank recognizes that the identities and cultures of Indigenous Peoples are inextricably linked to the lands on which they live and the natural resources on which they depend. These distinct circumstances expose Indigenous Peoples to different types of risks and levels of impacts from development projects, including loss of identity, culture, and customary livelihoods, as well as exposure to disease. Gender and intergenerational issues among Indigenous Peoples also are complex. As social groups with identities that are often distinct from dominant groups in their national societies, Indigenous Peoples are frequently among the most marginalized and vulnerable segments of the population. As a result, their economic, social, and legal status often limits their capacity to defend their interests in and rights to lands, territories, and other productive resources, and/or restricts their ability to participate in and benefit from development. At the same time, the Bank recognizes that Indigenous Peoples play a vital role in sustainable development and that their rights are increasingly being addressed under both domestic and international law.

3. *Identification.* Because of the varied and changing contexts in which Indigenous Peoples live and because there is no universally accepted definition of "Indigenous Peoples," this policy does not define the term. Indigenous Peoples may be referred to in different countries by such terms as "indigenous ethnic minorities," "aboriginals," "hill tribes," "minority nationalities," "scheduled tribes," or "tribal groups."

4. For purposes of this policy, the term "Indigenous Peoples" is used in a generic sense to refer to a distinct, vulnerable, social and cultural group[6] possessing the following characteristics in varying degrees:

- (a) Self-identification as members of a distinct indigenous cultural group and recognition of this identity by others;
- (b) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories;[7]

- (c) customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and
- (d) an indigenous language, often different from the official language of the country or region.

A group that has lost "collective attachment to geographically distinct habitats or ancestral territories in the project area" (paragraph 4 (b)) because of forced severance remains eligible for coverage under this policy.^[8] Ascertaining whether a particular group is considered as "Indigenous Peoples" for the purpose of this policy may require a technical judgment (see paragraph 8).

5. Use of Country Systems. The Bank may decide to use a country's systems to address environmental and social safeguard issues in a Bank-financed project that affects Indigenous Peoples. This decision is made in accordance with the requirements of the applicable Bank policy on country systems. ^[9]

Project Preparation

6. A project proposed for Bank financing that affects Indigenous Peoples requires:

- (a) screening by the Bank to identify whether Indigenous Peoples are present in, or have collective attachment to, the project area (see paragraph 8);
- (b) a social assessment by the borrower (see paragraph 9 and [Annex A](#));
- (c) a process of free, prior, and informed consultation with the affected Indigenous Peoples' communities at each stage of the project, and particularly during project preparation, to fully identify their views and ascertain their broad community support for the project (see paragraphs 10 and 11);
- (d) the preparation of an Indigenous Peoples Plan (see paragraph 12 and [Annex B](#)) or an Indigenous Peoples Planning Framework (see paragraph 13 and [Annex C](#)); and
- (e) disclosure of the Indigenous Peoples Plan or Indigenous Peoples Planning Framework (see paragraph 15).

7. The level of detail necessary to meet the requirements specified in paragraph 6 (b), (c), and (d) is proportional to the complexity of the proposed project and commensurate with the nature and scale of the proposed project's potential effects on the Indigenous Peoples, whether adverse or positive.

Screening

8. Early in project preparation, the Bank undertakes a screening to determine whether Indigenous Peoples (see paragraph 4) are present in, or have collective attachment to, the project area.^[10] In conducting this screening, the Bank seeks the technical judgment of qualified social scientists with expertise on the social and cultural groups in the project area.

The Bank also consults the Indigenous Peoples concerned and the borrower. The Bank may follow the borrower's framework for identification of Indigenous Peoples during project screening, when that framework is consistent with this policy.

Social Assessment

9. *Analysis.* If, based on the screening, the Bank concludes that Indigenous Peoples are present in, or have collective attachment to, the project area, the borrower undertakes a social assessment to evaluate the project's potential positive and adverse effects on the Indigenous Peoples, and to examine project alternatives where adverse effects may be significant. The breadth, depth, and type of analysis in the social assessment are proportional to the nature and scale of the proposed project's potential effects on the Indigenous Peoples, whether such effects are positive or adverse (see [Annex A](#) for details). To carry out the social assessment, the borrower engages social scientists whose qualifications, experience, and terms of reference are acceptable to the Bank.

10. Consultation and Participation. Where the project affects Indigenous Peoples, the borrower engages in free, prior, and informed consultation with them. To ensure such consultation, the borrower:

- (a) establishes an appropriate gender and intergenerationally inclusive framework that provides opportunities for consultation at each stage of project preparation and implementation among the borrower, the affected Indigenous Peoples' communities, the Indigenous Peoples Organizations (IPOs) if any, and other local civil society organizations (CSOs) identified by the affected Indigenous Peoples' communities;
- (b) uses consultation methods^[11] appropriate to the social and cultural values of the affected Indigenous Peoples' communities and their local conditions and, in designing these methods, gives special attention to the concerns of Indigenous women, youth, and children and their access to development opportunities and benefits; and
- (c) provides the affected Indigenous Peoples' communities with all relevant information about the project (including an assessment of potential adverse effects of the project on the affected Indigenous Peoples' communities) in a culturally appropriate manner at each stage of project preparation and implementation.

11. In deciding whether to proceed with the project, the borrower ascertains, on the basis of the social assessment (see paragraph 9) and the free, prior, and informed consultation (see paragraph 10), whether the affected Indigenous Peoples' communities provide their broad support to the project. Where there is such support, the borrower prepares a detailed report that documents:

- (a) the findings of the social assessment;
- (b) the process of free, prior, and informed consultation with the affected Indigenous Peoples' communities;

- (c) additional measures, including project design modification, that may be required to address adverse effects on the Indigenous Peoples and to provide them with culturally appropriate project benefits;
- (d) recommendations for free, prior, and informed consultation with and participation by Indigenous Peoples' communities during project implementation, monitoring, and evaluation; and
- (e) any formal agreements reached with Indigenous Peoples' communities and/or the IPOs.

The Bank reviews the process and the outcome of the consultation carried out by the borrower to satisfy itself that the affected Indigenous Peoples' communities have provided their broad support to the project. The Bank pays particular attention to the social assessment and to the record and outcome of the free, prior, and informed consultation with the affected Indigenous Peoples' communities as a basis for ascertaining whether there is such support. The Bank does not proceed further with project processing if it is unable to ascertain that such support exists.

Indigenous Peoples Plan/Planning Framework

12. *Indigenous Peoples Plan.* On the basis of the social assessment and in consultation with the affected Indigenous Peoples' communities, the borrower prepares an Indigenous Peoples Plan (IPP) that sets out the measures through which the borrower will ensure that (a) Indigenous Peoples affected by the project receive culturally appropriate social and economic benefits; and (b) when potential adverse effects on Indigenous Peoples are identified, those adverse effects are avoided, minimized, mitigated, or compensated for (see [Annex B](#) for details). The IPP is prepared in a flexible and pragmatic manner, [12] and its level of detail varies depending on the specific project and the nature of effects to be addressed. The borrower integrates the IPP into the project design. When Indigenous Peoples are the sole or the overwhelming majority of direct project beneficiaries, the elements of an IPP should be included in the overall project design, and a separate IPP is not required. In such cases, the Project Appraisal Document (PAD) includes a brief summary of how the project complies with the policy, in particular the IPP requirements.

13. *Indigenous Peoples Planning Framework.* Some projects involve the preparation and implementation of annual investment programs or multiple subprojects.[13] In such cases, and when the Bank's screening indicates that Indigenous Peoples are likely to be present in, or have collective attachment to, the project area, but their presence or collective attachment cannot be determined until the programs or subprojects are identified, the borrower prepares an Indigenous Peoples Planning Framework (IPPF).

The IPPF provides for the screening and review of these programs or subprojects in a manner consistent with this policy (see [Annex C](#) for details). The borrower integrates the IPPF into the project design.

14. *Preparation of Program and Subproject IPPs.* If the screening of an individual program or subproject identified in the IPPF indicates that Indigenous Peoples are present in, or have collective attachment to, the area of the program or subproject, the borrower

ensures that, before the individual program or subproject is implemented, a social assessment is carried out and an IPP is prepared in accordance with the requirements of this policy. The borrower provides each IPP to the Bank for review before the respective program or subproject is considered eligible for Bank financing. [14]

Disclosure

15. The borrower makes the social assessment report and draft IPP/IPPF available to the affected Indigenous Peoples' communities in an appropriate form, manner, and language.[15] Before project appraisal, the borrower sends the social assessment and final IPP/IPPF to the Bank for review. [16] Once the Bank accepts the documents as providing an adequate basis for project appraisal, the Bank makes them available to the public in accordance with *The World Bank Policy on Disclosure of Information*, and the borrower makes them available to the affected Indigenous Peoples' communities in the same manner as the earlier draft documents.

Special Considerations

Lands and Related Natural Resources

16. Indigenous Peoples are closely tied to land, forests, water, wildlife, and other natural resources, and therefore special considerations apply if the project affects such ties. In this situation, when carrying out the social assessment and preparing the IPP/IPPF, the borrower pays particular attention to:

- (a) the customary rights[17] of the Indigenous Peoples, both individual and collective, pertaining to lands or territories that they traditionally owned, or customarily used or occupied, and where access to natural resources is vital to the sustainability of their cultures and livelihoods;
- (b) the need to protect such lands and resources against illegal intrusion or encroachment;
- (c) the cultural and spiritual values that the Indigenous Peoples attribute to such lands and resources; and
- (d) Indigenous Peoples' natural resources management practices and the long-term sustainability of such practices.

17. If the project involves (a) activities that are contingent on establishing legally recognized rights to lands and territories that Indigenous Peoples have traditionally owned or customarily used or occupied (such as land titling projects), or (b) the acquisition of such lands, the IPP sets forth an action plan for the legal recognition of such ownership, occupation, or usage. Normally, the action plan is carried out before project implementation; in some cases, however, the action plan may need to be carried out concurrently with the project itself. Such legal recognition may take the following forms:

- (a) full legal recognition of existing customary land tenure systems of Indigenous Peoples; or
- (b) conversion of customary usage rights to communal and/or individual ownership rights.

If neither option is possible under domestic law, the IPP includes measures for legal recognition of perpetual or long-term renewable custodial or use rights.

Commercial Development of Natural and Cultural Resources

18. If the project involves the commercial development of natural resources (such as minerals, hydrocarbon resources, forests, water, or hunting/fishing grounds) on lands or territories that Indigenous Peoples traditionally owned, or customarily used or occupied, the borrower ensures that as part of the free, prior, and informed consultation process the affected communities are informed of (a) their rights to such resources under statutory and customary law; (b) the scope and nature of the proposed commercial development and the parties interested or involved in such development; and (c) the potential effects of such development on the Indigenous Peoples' livelihoods, environments, and use of such resources. The borrower includes in the IPP arrangements to enable the Indigenous Peoples to share equitably in the benefits [18] to be derived from such commercial development; at a minimum, the IPP arrangements must ensure that the Indigenous Peoples receive, in a culturally appropriate manner, benefits, compensation, and rights to due process at least equivalent to that to which any landowner with full legal title to the land would be entitled in the case of commercial development on their land.

19. If the project involves the commercial development of Indigenous Peoples' cultural resources and knowledge (for example, pharmacological or artistic), the borrower ensures that as part of the free, prior, and informed consultation process, the affected communities are informed of (a) their rights to such resources under statutory and customary law; (b) the scope and nature of the proposed commercial development and the parties interested or involved in such development; and (c) the potential effects of such development on Indigenous Peoples' livelihoods, environments, and use of such resources. Commercial development of the cultural resources and knowledge of these Indigenous Peoples is conditional upon their prior agreement to such development. The IPP reflects the nature and content of such agreements and includes arrangements to enable Indigenous Peoples to receive benefits in a culturally appropriate way and share equitably in the benefits to be derived from such commercial development.

Physical Relocation of Indigenous Peoples

20. Because physical relocation of Indigenous Peoples is particularly complex and may have significant adverse impacts on their identity, culture, and customary livelihoods, the Bank requires the borrower to explore alternative project designs to avoid physical relocation of Indigenous Peoples. In exceptional circumstances, when it is not feasible to avoid relocation, the borrower will not carry out such relocation without obtaining broad support for it from the affected Indigenous Peoples' communities as part of the free, prior,

and informed consultation process. In such cases, the borrower prepares a resettlement plan in accordance with the requirements of [OP 4.12](#), *Involuntary Resettlement*, that is compatible with the Indigenous Peoples' cultural preferences, and includes a land-based resettlement strategy. As part of the resettlement plan, the borrower documents the results of the consultation process. Where possible, the resettlement plan should allow the affected Indigenous Peoples to return to the lands and territories they traditionally owned, or customarily used or occupied, if the reasons for their relocation cease to exist.

21. In many countries, the lands set aside as legally designated parks and protected areas may overlap with lands and territories that Indigenous Peoples traditionally owned, or customarily used or occupied. The Bank recognizes the significance of these rights of ownership, occupation, or usage, as well as the need for long-term sustainable management of critical ecosystems. Therefore, involuntary restrictions on Indigenous Peoples' access to legally designated parks and protected areas, in particular access to their sacred sites, should be avoided. In exceptional circumstances, where it is not feasible to avoid restricting access, the borrower prepares, with the free, prior, and informed consultation of the affected Indigenous Peoples' communities, a process framework in accordance with the provisions of [OP 4.12](#). The process framework provides guidelines for preparation, during project implementation, of an individual parks and protected areas' management plan, and ensures that the Indigenous Peoples participate in the design, implementation, monitoring, and evaluation of the management plan, and share equitably in the benefits of the parks and protected areas. The management plan should give priority to collaborative arrangements that enable the Indigenous Peoples, as the custodians of the resources, to continue to use them in an ecologically sustainable manner.

Indigenous Peoples and Development

22. In furtherance of the objectives of this policy, the Bank may, at a member country's request, support the country in its development planning and poverty reduction strategies by providing financial assistance for a variety of initiatives designed to:

- (a) strengthen local legislation, as needed, to establish legal recognition of the customary or traditional land tenure systems of Indigenous Peoples;
- (b) make the development process more inclusive of Indigenous Peoples by incorporating their perspectives in the design of development programs and poverty reduction strategies, and providing them with opportunities to benefit more fully from development programs through policy and legal reforms, capacity building, and free, prior, and informed consultation and participation;
- (c) support the development priorities of Indigenous Peoples through programs (such as community-driven development programs and locally managed social funds) developed by governments in cooperation with Indigenous Peoples;
- (d) address the gender [\[19\]](#) and intergenerational issues that exist among many Indigenous Peoples, including the special needs of indigenous women, youth, and children;

- (e) prepare participatory profiles of Indigenous Peoples to document their culture, demographic structure, gender and intergenerational relations and social organization, institutions, production systems, religious beliefs, and resource use patterns;
- (f) strengthen the capacity of Indigenous Peoples' communities and IPOs to prepare, implement, monitor, and evaluate development programs;
- (g) strengthen the capacity of government agencies responsible for providing development services to Indigenous Peoples;
- (h) protect indigenous knowledge, including by strengthening intellectual property rights; and
- (i) facilitate partnerships among the government, IPOs, CSOs, and the private sector to promote Indigenous Peoples' development programs.

Notes

1. This policy should be read together with other relevant Bank policies, including *Environmental Assessment* (OP 4.01), *Natural Habitats* (OP 4.04), *Pest Management* (OP 4.09), *Physical Cultural Resources* (OP 4.11, forthcoming), *Involuntary Resettlement* (OP 4.12), *Forests* (OP 4.36), and *Safety of Dams* (OP 4.37).
2. "Bank" includes IBRD and IDA; "loans" includes IBRD loans, IDA credits, IDA grants, IBRD and IDA guarantees, and Project Preparation Facility (PPF) advances, but does not include development policy loans, credits, or grants. For social aspects of development policy operations, see OP 8.60, *Development Policy Lending*, paragraph 10. The term "borrower" includes, wherever the context requires, the recipient of an IDA grant, the guarantor of an IBRD loan, and the project implementing agency, if it is different from the borrower.
3. This policy applies to all components of the project that affect Indigenous Peoples, regardless of the source of financing.
4. "Free, prior, and informed consultation with the affected Indigenous Peoples' communities" refers to a culturally appropriate and collective decision-making process subsequent to meaningful and good faith consultation and informed participation regarding the preparation and implementation of the project. It does not constitute a veto right for individuals or groups (see paragraph 10).
5. For details on "broad community support to the project by the affected Indigenous Peoples," see paragraph 11.
6. The policy does not set an *a priori* minimum numerical threshold since groups of Indigenous Peoples may be very small in number and their size may make them more vulnerable.
7. "Collective attachment" means that for generations there has been a physical presence in and economic ties to lands and territories traditionally owned, or customarily used or occupied, by the group concerned, including areas that hold special significance for it, such as sacred sites. "Collective attachment" also refers to the attachment of transhumant/nomadic groups to the territory they use on a seasonal or cyclical basis.
8. "Forced severance" refers to loss of collective attachment to geographically distinct habitats or ancestral territories occurring within the concerned group members' lifetime because of conflict, government resettlement programs, dispossession from their lands, natural calamities, or incorporation of such territories into an urban area. For purposes of this policy, "urban area" normally means a city or a large town, and takes into account all of the following characteristics, no single one of which is definitive: (a) the legal designation of the area as urban under domestic law; (b) high population density; and (c) high proportion of non-agricultural economic activities relative to agricultural activities.
9. The currently applicable Bank policy is OP/BP 4.00, *Piloting the Use of Borrower Systems to Address Environmental and Social Safeguard Issues in Bank-Supported Projects*. Applicable only to pilot projects using borrower systems, the policy includes requirements that such systems be designed to meet the policy objectives and adhere to the operational principles related to Indigenous Peoples identified in OP 4.00 (see Table A1.E).
10. The screening may be carried out independently or as part of a project environmental assessment (see OP 4.01, *Environmental Assessment*, paragraphs 3, 8).

11. Such consultation methods (including using indigenous languages, allowing time for consensus building, and selecting appropriate venues) facilitate the articulation by Indigenous Peoples of their views and preferences. The "Indigenous Peoples Guidebook" (forthcoming) will provide good practice guidance on this and other matters.
12. When non-Indigenous Peoples live in the same area with Indigenous Peoples, the IPP should attempt to avoid creating unnecessary inequities for other poor and marginal social groups.
13. Such projects include community-driven development projects, social funds, sector investment operations, and financial intermediary loans.
14. If the Bank considers the IPPF to be adequate for the purpose, however, the Bank may agree with the borrower that prior Bank review of the IPP is not needed. In such case, the Bank reviews the IPP and its implementation as part of supervision (see [OP 13.05](#), *Project Supervision*).
15. The social assessment and IPP require wide dissemination among the affected Indigenous Peoples' communities using culturally appropriate methods and locations. In the case of an IPPF, the document is disseminated using IPOs at the appropriate national, regional, or local levels to reach Indigenous Peoples who are likely to be affected by the project. Where IPOs do not exist, the document may be disseminated using other CSOs as appropriate.
16. An exception to the requirement that the IPP (or IPPF) be prepared as a condition of appraisal may be made with the approval of Bank management for projects meeting the requirements of [OP 8.50](#), *Emergency Recovery Assistance*. In such cases, management's approval stipulates a timetable and budget for preparation of the social assessment and IPP or of the IPPF.
17. "Customary rights" to lands and resources refers to patterns of long-standing community land and resource usage in accordance with Indigenous Peoples' customary laws, values, customs, and traditions, including seasonal or cyclical use, rather than formal legal title to land and resources issued by the State.
18. The "Indigenous Peoples Guidebook" (forthcoming) will provide good practice guidance on this matter.
19. See [OP/BP 4.20](#), *Gender and Development*.

Annex A: Social Assessment

1. The breadth, depth, and type of analysis required for the social assessment are proportional to the nature and scale of the proposed project's potential effects on the Indigenous Peoples.
2. The social assessment includes the following elements, as needed:
 - (a) A review, on a scale appropriate to the project, of the legal and institutional framework applicable to Indigenous Peoples.
 - (b) Gathering of baseline information on the demographic, social, cultural, and political characteristics of the affected Indigenous Peoples' communities, the land and territories that they have traditionally owned or customarily used or occupied, and the natural resources on which they depend.
 - (c) Taking the review and baseline information into account, the identification of key project stakeholders and the elaboration of a culturally appropriate process for consulting with the Indigenous Peoples at each stage of project preparation and implementation (see paragraph 9 of this policy).
 - (d) An assessment, based on free, prior, and informed consultation, with the affected Indigenous Peoples' communities, of the potential adverse and positive effects of the project. Critical to the determination of potential adverse impacts is an analysis of the relative vulnerability of, and risks to, the affected Indigenous Peoples' communities given their distinct circumstances and close ties to land and natural resources, as well as their lack of access to opportunities relative to other social groups in the communities, regions, or national societies in which they live.

- (e) The identification and evaluation, based on free, prior, and informed consultation with the affected Indigenous Peoples' communities, of measures necessary to avoid adverse effects, or if such measures are not feasible, the identification of measures to minimize, mitigate, or compensate for such effects, and to ensure that the Indigenous Peoples receive culturally appropriate benefits under the project.

Annex B Indigenous Peoples Plans

1. The Indigenous Peoples Plan (IPP) is prepared in a flexible and pragmatic manner, and its level of detail varies depending on the specific project and the nature of effects to be addressed.
2. The IPP includes the following elements, as needed:
 - (a) A summary of the information referred to in Annex A, paragraph 2, (a) and (b).
 - (b) A summary of the social assessment.
 - (c) A summary of results of the free, prior, and informed consultation with the affected Indigenous Peoples' communities that was carried out during project preparation (Annex A) and that led to broad community support for the project.
 - (d) A framework for ensuring free, prior, and informed consultation with the affected Indigenous Peoples' communities during project implementation (see paragraph 10 of this policy).
 - (e) An action plan of measures to ensure that the Indigenous Peoples receive social and economic benefits that are culturally appropriate, including, if necessary, measures to enhance the capacity of the project implementing agencies.
 - (f) When potential adverse effects on Indigenous Peoples are identified, an appropriate action plan of measures to avoid, minimize, mitigate, or compensate for these adverse effects.
 - (g) The cost estimates and financing plan for the IPP.
 - (h) Accessible procedures appropriate to the project to address grievances by the affected Indigenous Peoples' communities arising from project implementation. When designing the grievance procedures, the borrower takes into account the availability of judicial recourse and customary dispute settlement mechanisms among the Indigenous Peoples.
 - (i) Mechanisms and benchmarks appropriate to the project for monitoring, evaluating, and reporting on the implementation of the IPP. The monitoring and evaluation mechanisms should include arrangements for the free, prior, and informed consultation with the affected Indigenous Peoples' communities.

Annex C: Indigenous Peoples Planning Framework

The Indigenous Peoples Planning Framework (IPPF) sets out:

- (a) The types of programs and subprojects likely to be proposed for financing under

the project.

(b) The potential positive and adverse effects of such programs or subprojects on Indigenous Peoples.

(c) A plan for carrying out the social assessment (see Annex A) for such programs or subprojects.

(d) A framework for ensuring free, prior, and informed consultation with the affected Indigenous Peoples' communities at each stage of project preparation and implementation (see paragraph 10 of this policy).

(e) Institutional arrangements (including capacity building where necessary) for screening project-supported activities, evaluating their effects on Indigenous Peoples, preparing IPPs, and addressing any grievances.

(f) Monitoring and reporting arrangements, including mechanisms and benchmarks appropriate to the project.

(g) Disclosure arrangements for IPPs to be prepared under the IPPF.

Annex 2: Itinerary of the Consultation (carried out by consultancy assignment)

Dates	Activity
2 nd July 2007	<ul style="list-style-type: none"> - Flew from Nairobi to Kisumu - Traveled by road from Kisumu to Kakamega - Met with management of LVNWSB - Review of literature at LVNWSB - Traveled by road from Kakamega to Eldoret
3 rd July 2007	<ul style="list-style-type: none"> - Traveled from Eldoret to Kapsowar to meet stakeholders
4 th July 2007	<ul style="list-style-type: none"> - Traveled from Kapsowar to Kapcherop to meet stakeholders
5 th July 2007	<ul style="list-style-type: none"> - Traveled from Kapcherop to Kitale - Traveled from Kitale to Kapolet to meet stakeholders - Traveled from Kapolet to Kitale - Traveled back to Nairobi
6 th July 2007	<ul style="list-style-type: none"> - Typed and edited minutes collected from the field
7 th to 10 th July 2007	<ul style="list-style-type: none"> - Review of literature from Archives and libraries
11 th and 13 th July 2007	<ul style="list-style-type: none"> - Preparation of guidelines for indigenous peoples Plan
14 th to 15 th July 2007	<ul style="list-style-type: none"> - Compiling the draft report
18 th July 2007	<ul style="list-style-type: none"> - Submission of report
7 th September 2007	<ul style="list-style-type: none"> - Received comments for the draft report
10 th -13 th September	<ul style="list-style-type: none"> - Traveled to Kapenguria to complete the consultancy.
9 th September 2007	<ul style="list-style-type: none"> - submission of report

Annex 3: Questionnaires Used for Different Groups

A. QUESTIONS DIRECTED AT THE SENGWER COMMUNITY MEMBERS AND THEIR REPRESENTATIVE ORGANIZATIONS

1. Have you been consulted by the LVNWSB concerning the WaSSIP project?
2. If the answer to the above question is yes then,
 - How have you been consulted?
 - What issues did you raise during the consultation?
 - Are there any issues which were not made clear?
 - Are you happy about how you were consulted? Do you have records of minutes arising from such consultations?
 - Do you have records of minutes arising from such consultations?
3. What are the Sengwer views towards land acquisition for implementing WaSSIP project activities?
4. Do you have any map showing Sengwer traditional and current territory or any other showing the area covered by the proposed project?
5. What are the adverse impacts of the project on
 - Sengwer women?
 - Sengwer men?
 - Sengwer youth?
6. What are the potential benefits of the project on
 - Sengwer women?
 - Sengwer men?
 - Sengwer youth?
7. What should be done in order to protect your ancestral land and its resources against illegal intrusion or encroachment?
8. What can be done to reduce the adverse impacts and maximize benefits of the project on the community?
9. Is the project of any cultural benefit to your community?
10. What culturally appropriate process should LVNWSB use to consult with your community concerning the project at
 - Project preparation stage?
 - Project implementation stage?
11. What capacity building measures are needed to ensure that the Sengwer are effectively enabled to participate in project
 - Implementation?
 - Monitoring?
 - Evaluation?

B. QUESTIONS DIRECTED AT THE LAKE VICTORIA NORTH WATER SERVICES BOARD

- 12 What are the project activities?
- 13 Have you had any consultative meetings with the Sengwer community members and their representatives?
- 14 If yes to the above question then
- 15 How many meetings?
- 16 How did you consult them (in writing, open-air *brazes*, through their representatives, through local administration etc)?
- 17 Did you inform them about the associated potential benefits and negative impacts of the project?
- 18 What issues did they raise concerning the project?
- 19 Do you have records of minutes arising from such consultations?
- 20 What is the magnitude and area of potential impacts, both positive and negative?
- 21 What additional measures are required to address adverse impacts?
- 22 Is the project going to require land acquisition for project activities?
- 23 If yes to the above question then,
- 24 What is the amount of land required?
- 25 What is the current status of the land use?
 - What are the Sengwer views towards land acquisition for implementing project activities?
 - Do you have a map or maps for the project area?
- 26 how are you going to ensure that women, men and youth from the Sengwer community share equitably in the project?
- 27 Who are the stakeholders identified and involved in the project?
- 28 What appropriate process is to be used by LVNWSNB to ensure free, prior, and informed consultation with and participation by Sengwer communities during the project implementation, monitoring and evaluation?
- 29 What ways should ensure that the Sengwer are included to participate in decision-making process concerning project activities in their area?
- 30 What capacity building measures are needed to ensure that LVNWSB is effectively enabled to implement the project at
 - Implementation stage?
 - Monitoring stage?
 - Evaluation stage?
- 31 It is stated that a social and environmental specialist worked with LVNWSB counterparts to review the draft Resettlement Policy Framework (RPF) and draft Environmental and Social Management Framework (ESMF). Revised drafts were presented to Water Services Boards and World Bank. Is possible for us to have these reports?

Annex 4: People and organizations met by the consultant at various locations between 2nd and 5th July 2007.

Names of people met on 2nd July 2007

Eng. David Kimingi – Technical Manager, LVNWSB, Kakamega

Eng. Claude K. Busieney- Asset Development Manager, LVNWSB, Kakamega

Isaac Ruto - LVNWSB

Names of people met on 3rd July 2007 at a meeting of Kipkunur Water users Association in Kapsowar SACCO Building

MEMBERS PRESENT |

1. Samuel Cheboi	Kapsower Committee
2. Luka Setur	“
3. Benjamin Chemweno	Member
4. Samuel Kanda	Kapsowar
5. committee	
6. Obadiah Olengo	Pastor (Churches Rep
7. Antony Bowen	Committee Kapsower
8. Nathan Kimutai	Member
9. Samuel Setur	Chairman Kapsower
10. Daniel Kipkore	Committee Kapsower
11. Jacob Biwott	Committee Kapsower
12. Jonathan Kisang	Committee Kapsower
13. Rebecca Mutwoi	Treasurer Kapsower
14. Truphena Yego	Member
15. Sammy Koech	Asst. Chief Kapsomai
16. Joseph Ruto	Secretary Kipsowar
17. Joseph Kiomei	Treasurer Kipsanya
18. Sylvester Chepkonga	Chairman Kipsanya
19. Shouldy K. Chebii	Chairman Tuiyebei
20. Jacob Kimutai	Borowe Tuiyebei W/S
21. Philomena Ruto	Member
22. Jonathan Kiplang’at	Member
23. Jonathan Chepsag	Member
24. Richard Kore	Member
25. Edward Yano	Member
26. Philip Chemweno	Manager Kapsower
27. Gicheru	D.O.I. Marakwet
28. Humprey Musani	D.W.O. Marakwet
29. Elia Kibet	Committee
30. Vivian Kiplagat	Member
31. Salina Kurui	Member
32. Joseph Cheboi	Member
33. Wilson Chemonyoi	Committee Kapsowar
34. Shouldiam Kiptungei	Chief Koibarak
35. Isaac Ruto	LVNWSB, Kakamega
36. David Bowen	D.O. Kapsowar

Names of people met on 4th July 2007 at Kapcherop Community Centre

Name	Organisation	Contact
1. Joseph B. Mutai	Chief Sengwer	0726761108
2. Edwin S. Kiroich	Chief Kiptoror location	0722575973
3. Stephen Nyakundi	DO Kapcherop	
4. Dr. Naomi Kipuri	Consultant	
5. Isaac Ruto	LVNWSB	0727722272
6. Humpvey Musani	DWO	0728843019
7. Paul K. Kibet	paulkibet2005@ yahoo.com	0721353944
8. Michael Kimaiyo	kimaiyoarapnyebecoi@yahoo.com	
9. Patrick J.A. Yano	Chairman CDF M Wasy	0722260623
10. Benjamin Too	Chief Lelan Location	0734884060
11. Shouldiam Kando	Chairman Chorwo PCS	0721349509
12. Barnabas Kosgei	Forester Ngong Nairobi	0721852395
13. Vincent B. Cherungut	Sengwer Cherangany water supply	
14. Paul Chemelil	SCHIPWUA	0728688312
15. Julius Kiptum	SCHIPWUA	21019385
16. Joel Kiprono Yano		
17. Jackson Chesum	Kapchesol water supply	0728061621
18. John Bamboi	Taries water supply	
19. Edward Katam	Sengwer Cherangny	
20. James Kibet	Sengwer Cherangany	
21. Thomas Chebelio	Businessman	
22. Joseph Motecle	Farmer	
23. Daniel Kibet	Water technician Kapcherop	
24. Peter Kipkorir		0722739030
25. Peter Ayub	Scheme Manager Kapcerop	
26. Duncan Kibet	SCHIPWUA	0726993921
27. Noah Koech	Kiplarko water supply	
28. Francis Bargetich		
29. Benson Keitang	SCHEPWUA	
30. Paul Yano	SCHEPWUA	
31. Emmanuel Cezereka		0723793904
32. Stephen Kogo	SCHEPWUA	
33. Samson Rotich	SCHEPWUA	
34. Phillip Tatich	SCHEPWUA	0726313392
35. Samuel Rotich	SCHEPWUA	
36. Ismael K. Abdi	Kapcherop Chairman	
37. Justine K Mutwoi	Kapcherop	0723637241
38. Eliud Kiptoo	Kiplegetet	
39. Joseph wafula	Kapcherop	
40. Evans Kibet	Kipsetum	
41. Edwin Kiprop	Kaptuting	
42. Paulina J. Kosgei	Kalbul member	
43. Joshua K. Simbolei	Kalbul Member	9864849
44. John K. Yator	Kamoi Location	
45. Joel Kiplel	Kapcherop centre	
46. Paul Kilimo Katam	Sengwer Cherangany	

47. John Kipkamen	Sengwer Cherangany	
48. Jacob Yator Cherutoi	Sengwer Cherangany	
49. Reuben Kaptoo Kiprono	Sengwer Cherangany	
50. David Harambee	Chesubet water project	
51. Stephen K. Saina	Sengwer Cherangany	
52. Jacob K. Tekeboi	Vice Chairman Sengwer Cherangany	0723400472
53. Edward K. Langat	Member Sengwer Cherangany Forest	Box 1
		Kapcherop
54. Shouldy Kilimo	Member	PO Box 73
		Kapa
55. Joshua Kiptum	Member	
56. William Yator	Member	
57. Cllr. Reuben K. Tekeroi		0722987614
58. Pl. Benjamin Gillet Kibor	Kiptoror location	0727587527
59. Shouldiam K. Ruto	Sengwer	
	0726930824	
60. Jacob Suter	Sengwer	
61. Mike Lugadiru	Youth Officer	
62. Paul Chesum	Sengwer	
63. Kemboi Cheruyiot	Sengwer	0726574439
64. Samuel K. Rotich	Sengwer	
65. Samuel K. Chelangat	Emjat Water project	
66. James Korir Rotich		

Names of people met on 5th July at a meeting held at Kapolet

Name	Organisation	Address
1. Charles K. Kiberen	SCIC	Box 3894 Kitale
2. Kipyego Kimtai	Kapotat	Box 98 Kapsora
3. Bernard Kipchumba		
4. Sharon Kakuko		
5. Helda Julius		
6. Andrew Rotich		
7. Jackson Barchuro		
8. Zekero Terer		
9. Julius Kuntai		
10. Koech Cuka		
11. Selina Kurkat		
12. Alfred Wamalwa		
13. Moses Kibet		
14. Daniel Chelimo	Kapcherop	Box 16 Kapcherop
15. Felista Kapoiyo	Kapolet	Box 98 Kapsorah
16. Mary Daniel Kiptoo		
17. Rodah Cheyech		
18. Joseph Korir		
19. James Sitiemei		
20. Samuel Kaptimin		
21. Kipkiror Chepkwony		
22. John Kipchoke		
23. Nicholas Kiprotich		

24. Wiiliam Kiptoo		
25. Joshua Chepsum		
26. John Kiptorus	Kapcherop	Box 1 Kapcherop
27. Thomas Yator	Kapolet	Box 98 Kapsorah
28. David Kiprop		
29. Stephen Kiplimo		
30. Daniel Kiptoo		
31. Fridah C. Kipkech	SCIC	3894 Kitale
32. Charity A. Odhiambo		
33. David Yator		
34. Kimtai Kibon	Kapolet	Box 98 Kapsorah
35. Joseph Chemeseluk		
36. Gabriel Chepkinyeng		
37. Barnabas kapkundos		
38. Michael Kiplang'at		
39. Shouldiam Kipkwen		
40. Joseph Kibor		
41. Rosemary Cherono		
42. Agnes Chebet		
43. Cathrine Jepkemoi		
44. Issac Kosgei		
45. Jacob Chelole		
46. Poul Cherui		
47. David Lochom		
48. Barnabas Rotich		
49. John Sowe	Kapolet	Box 98 Kapsorah
50. Samuel Nyoris		
51. Abraham (Abu.)		
52. Catherine \Chepkemoi		
53. Ahmed Chirchir		
54. Stardir Shouldiam		
55. Vincent Kiptoo		
56. Penina Chaptanui		
57. Isaac Ruto	LVNWSB	Box 673 Kakamega

Names of peoples met on 11th September at Talau

Names	Contact/area	Names	Contact/area
James Chilakol	P.O. Box 175 AIC Chorok	Pst. Stephen Cheruyiot Barabara	G.S Rm
Moses Mwetich		Rose Kimawa	Talau
Benjamin Pyatich		Rose Kimawa	Talau
Reuben Koech		Magdalena Samuel	Talau
Joseph Kipkorir		Lidya Cherpako	Talau
Patrick meimo Chmakas		Jane Kimana	Talau
Elija Mariyech		Rebecca John	Talau
Paulo Chui		Cicilia Pilis	Talau
Jacob Kiptum	Kopsurum Talau	Cicilia Pilis	Talau

John Kitiyo	Chepkatu Talau	Evans C. Kibet	Talau
Charles Kamawa	Chepkatu Talau	Moses Kirop	Sub Loc Chepkoti 0736002672
William kauyani	Chepkesi Talau	Rosemary Chepkoti	Sub Loc Chepkoti
Samuel Cheruiyot	Chepkesi Talau	Simantha Chepkilis	
Samuel Kiptipion	Talau	Isaac Chilakol	Talau
Jeremiah K. Ruto	Talau Location, Kipsurum sub- location	Julia Chepchumba	Asst. Chief Chepkoti 0723879781
Simon Kikwai Kifilit	Talau 0729706649	Willie Biwott	Asst Chief Kapsurum 0734392521/0728212239
James Ptoisang	Chepkoti Talau	Telephina Joel Rotich	Chepkoti
Richard Simatwa	Chorok Talau	Julia Vincent Kituyo	Chepkoti
Revi Restone Aoya	New Testament Church of God- Talau	Eunice James Staram	Talau
Jackson Kiplangat Kaptipin	Talau sub 0729940363	Maurice Kiptarus	Chepkoti
Erick S. Kaptipin	Talau sub	Hellen Rashid	Chepkoti
Rev Koskei Sammy	PST Great Shepherd Revival Ministries	Solomon Cherongos	Kaibo Chemudep 0735712758
David Biwott	Asst Chief 0734208022/072640 0276	Julia Vincent Kituyo	Chepkoti
Telephina Joel Rotich	Chepkoti		

Names of peoples met at KAIBOS

Names	Contacts
Pastor Audrew Pehoile	Spiritual leader P.O. Box 23 Kapenguria
Dominic Samikwa	P.O. Box 173 Kapenguria , 0733436954
John Mariech	P.O. Box 173 Kapenguria
Joseph Kiptoo	P.O. Box 173 Kapenguria
Samuel Wafula	P.O. Box 173 Kapenguria
Samuel Kipsang	P.O. Box 173 Kapenguria
Phillip Koech	P.O. Box 173 Kapenguria
Samwel K. Aloket	P.O. Box 173 Kapenguria, 0721150889
Aloket Kiptany	P.O. Box 173 Kapenguria
Mika Kiprop Koyopel	P.O. Box 173 Kapenguria
Moses Masika	P.O. Box 173 Kapenguria
David Rotumoi Koech	P.O. Box 173 Kapenguria
David Rotumoi Koech	P.O. Box 173 Kapenguria
Rev. Koskei Sammy Pst OT	P.O. Box 480 Kapenguria, 0736167279
Simion Cherongos	P.O. Box 173 Kapenguria

Bishop Barnabas Mengich	P.O. Box 173 Kapenguria
Jacob Rotino	P.O. Box 173 Kapenguria
Elizabeth C. Kibet	P.O. Box 173 Kapenguria
Benjamin Pyatich	P.O. Box 173 Kapenguria
Elijah Meriech	P.O. Box 173 Kapenguria
Abraham Maina	P.O. Box 173 Kapenguria
Sang Antony	P.O. Box 173 Kapenguria
Dominic Sirko	P.O. Box 173 Kapenguria
Daniel Kibor	P.O. Box 173 Kapenguria
Hellen Koskei	P.O. Box 173 Kapenguria
Joseph Mwale	P.O. Box 173 Kapenguria
Jeremiah Kales	P.O. Box 173 Kapenguria
Emmanuel Kemoi	P.O. Box 173 Kapenguria
Jacob Chesiro	P.O. Box 173 Kapenguria
Emmanuel Metimo	P.O. Box 173 Kapenguria
Simon Kemoi	P.O. Box 173 Kapenguria
Joseph Kiplimo	P.O. Box 173 Kapenguria
Stephen Cheruyiot	P.O. Box 173 Kapenguria
Daniel Munges	P.O. Box 173 Kapenguria
Isaac K. Ruto	P.O. Box 673 Kakamega, LVNWSB
Patrick Owuor	AWSB Nairobi
Naomi Kipuri	Consultant

Annex 5: Minutes of the meeting held at Kipkunur Water Users Association on 03/07/2007 at Marakwet Teachers SACCO KAPSOWAR

The meeting started at 12 noon with a word of prayer by pastor Obadiah Olengo. Then the district water officer introduced the guests and Kapsowar water chairman introduced the other committees and members and the community people.

MIN 01: BRIEF REPORT FROM KAPSOWAR WATER SUPPLY USERS DSS

The chairman gave a brief report of the project. The chairman highlighted the current situation of the project and the problems experienced. After the chairman report few community people were given chance to give a brief report.

1. Ambrose Too – Committee member

He congratulated the visitors for their visit to the area. He stated that in the area we have experienced acute shortage of water and we need assistance from donors.

2. Jonathan Kisang - Mission Hospital Representative

He stated on the situation of water in Kapsowar area. He talked about the construction of M.T.C. (Medical College) which is being constructed. He added that a lot of development is being down in the area but the big problem in water.

3. Truphena Yego

She started by welcoming the presence of the LVNWSB representatives. She said water is still a big problem in their area. We request for help from the donors.

4. Daniel Kipkore – Committee Kapsowar

He highlighted on lasting solution to safeguard the current situation of water in the area.

5. Representative from the LVNWSB

Mr Ruto the LVNWSB representative requested the Kipsaiya chairman to give a brief report of his water supply.

MIN 02: CHAIRMAN KIPSAIYA WATER SUPPLY

The chairman briefed on the report of his project. He said the project needs funds further development. He talked of storage tanks and he said they are planning to construct one soon.

MIN 03: REPRESENTATIVE FROM THE LVNWSB

The district is classified in LVNWSB. The board has been given the mandate to oversee all water projects. The board should issue license to organizations supplying water to their communities.

The cluster Kipkunur Water Users Association has signed a water agreement with the management. The representative told the management committee to be doing the water treatment, operation and maintenance and other man power costs. The board is covering a wide area within the LVNWSB. Therefore funds given should be minimal.

MIN 04: THE GUEST CONSULTANT

She started by expaling what her assignment was and that she had questions she had prepared which she would appreciate if the participants could respond to. She expressed satisfaction at the presence of the youth, and disappointment that only two women were present yet it is the women who are most involved with water matters.

The chief guest went through the questionnaire for the participants to fully understand it. Then she requested the members to give their responses one at a time.

DANIEL KIPKORE CHAIRMAN KAPSOWAR WATER SUPPLY

He said we have been consulted thrice and we have not given any respond.

PROJECT MANAGER

He added that there was consultation by Mangat consultants

MIN 05: ANSWERS FROM QUESTIONNAIRES

The questionnaires were discussed one by one and some views were captured concerning the project. In this process several questionnaires were asked. The owner of the land were the project storage tanks were constructed was not compensated.

The D.O. I. complained that the case is in his office for action. Therefore he needs to know how the agreement was made. After a long discussion the community people agreed to compensate him. There were no maps but initially they were using clan's boundaries. The community people said there is no negative effect. The project should be

improving the living standard of the community since work load for the women and children were reduced. We appreciated as women if we have water at our homes. The women do not participate mostly in water elections. Therefore we need women sensation on building women confident.

MIN 06: AOB

One of the members complained that he is not heard discussion for irrigation but Ruto intervene and said the water is not enough for even domestic use.

One of the members requested the district water officer to give chemical for treatment also Mr. Ruto intervened and said the D.W.O. should be supplying the chemical until money is available for everyone to buy for themselves. He added that the board should train the officers who should assist in water treatment and the payment should be paid by the project. The community complained that they should be given one representative in the board members.

SPEECH FROM D.O.I.

He started by saying the community people should be given vacancies to exhaust their discussion first before he talks to officers. The community should have freedom to manage your resources especially in organization like CDF water and other CBOs.

He said water is essential therefore we must use water resources properly. He added that we must plant trees and conserve them.

ADJOURNMENT

The meeting was adjourned at 2:40 Pm by a word of prayer by pastor Obadiah Olengo.

Minutes of the Meeting held on 2nd July with the LVNWSB at their offices in Kakamega

Present:

Eng. David Kimingi – Technical Manager, LVNWSB

Eng. Claude Busieney, Asset Development Manager, LVNWSB

Isaac Ruto – Field Officer Water

After brief introductions the consultant was informed about the water project, the area covered and planned activities. Documents were also provided to the consultant. The consultant then went through the questionnaire and the responses are as follows in *italics* (questions 1-11 were meant for the Sengwer).

12. Have you had any consultative meetings with the Sengwer community members and their representatives? *The answer is yes.*

13. If yes to the above question then

- How many meetings? *Four meetings were held.*

- How did you consult them (in writing, open-air barazas, through their representatives, through local administration etc? *Consultation was carried out by a consultant.*
 - Did you inform them about the associated potential benefits and negative impacts of the project? *The consultant did.*
 - What issues did they raise concerning the project? *The issues raised I am told were in minutes which were to be provided to the consultant.*
 - Do you have records of minutes arising from such consultations?
14. What is the magnitude and area of potential impacts, both positive and negative? *In minutes.*
15. What additional measures are required to address adverse impacts? *The assumption was that there should be no adverse impacts so the question does not apply.*
16. Is the project going to require land acquisition for project activities? *Yes, but in Kapsowar only.*
17. If yes to the above question then,
- What is the amount of land required? *No much because what is required is for the construction of 'T' works, pipelines, storage tanks. The final designs have not yet been done. There is no land needed in Kapcherop. In Kapwsowar, there should be land needed for sanitation and toilets.*
 - What is the current status of land use? *To find out during field visit.*
 - What are the Sengwer views towards land acquisition for implementing project activities? *Land does not belong to them. Compensation is done for piping and 'T' works*
 - Do you have a map or maps for the project area? *Yes.*
18. How are you going to ensure that women, men and youth from the Sengwer community share equitably in the project? *Why only the Sengwer? It should be concerned community. According to the guidelines, one third of positions should be occupied by women. But it is now elders who are marginalized.*
19. Who are the stakeholders identified and involved in the project? *Kipkunur Water Users Association and Cheranganyf Water users Association*
20. What appropriate process is to be used by LVNWSNB to ensure free, prior, and informed consultation with and participation by Sengwer communities during the project implementation, monitoring and evaluation? *It is not only the Sengwer,, there are others. Licence from NEMA is a requirement and so is an EIA and public consultation, social impact and mitigation.*
21. What ways should ensure that the Sengwer are included to participate in decision-making process concerning project activities in their area? *An EIA addresses this, so does public consultation. NEMS should address all.*
22. What capacity building measures are needed to ensure that LVNWSB is effectively enabled to implement the project at
- Implementation stage? *Have adequate capacity at all stages.*
 - Monitoring stage?
 - Evaluation stage?
23. It is stated that a social and environmental specialist worked with LVNWSB counterparts to review the draft Resettlement Policy Framework (RPF) and draft Environmental and Social Management Framework (ESMF). Revised drafts were presented to Water Services Boards and World Bank. Is possible for us to have these reports? *In project document.*

Minutes of Meeting held on 4th July 2007 at Kapcherop Community Hall

Present:

Snr retired Chief Marakwet West, CDF Chair

Mr. Nyakundi – new DO and other leaders

Sengwer /Cheranganyi Water Users Association. A total of 65 people (see list of people met) comprising chiefs and councilors and a mix of Marakwet and Sengwer. The atmosphere was tense.

Mr. Isaac Ruto of the LVNWSB begun by explaining about the proposed water project. He stated that it would involve the following:

1. Rehabilitation of intake works
2. Building treatment works
3. Including an extra line
4. Building a storage tank
5. Sanitation

The consultant then explained what her task was and that she had some questions she would request the groups to respond to. Mr. Isaac Ruto encouraged the participants to speak truthfully even though he as a member of the Water Board was present.

Participants' reactions to the presentations on the water project are as follows:

The retired senior chief from Marakwet explained the plan of where to get the water and how they plan to inform the water engineer about their decision. He said that "Lelan is the last location to identify one of the tributaries of Turkwel, we put in two tanks and then pipe it. Compensation would be in form of water and bee hives." When the issue of indigenous peoples came up, the chief could not understand how it is possible to talk about the community and then indigenous peoples as another community. The consultant explained about the existence of the IPPF that requires *free, prior and informed consultation*. She explained that it has been discovered that although there are communities in general, some members of certain communities are excluded from full participation in issues concerning their own development. That is why the Kenya Government came up with what has been referred to as the Indigenous peoples planning Framework (or IPPF). At this juncture, it became clear that some members have never got copies of the IPPF document. Mr. Isaac Ruto was requested to supply copies the next time he comes to the area for consultation. He promised to do so.

The questionnaire was presented question by question and these are the responses.

1. No consultation has ever taken place.
2. N/A (not applicable) since we were never consulted.

On consultation, the majority of the people essentially stated that no consultation took place so they did not know anything about the water project. The responses were recorded verbatim as follows:

“I have not understood anything because I do not know where this water comes from or where it goes to”.

“The design leaves a lot to be desired – it only goes to the town centre, and nowhere else. There is not water in the school, the health centre and other places. “

3. Land acquisition – to me water is piped from here to Eldoret. This is unacceptable. It there was consultation, there would be information about where water goes.

There was a meeting, but why don't we know about it?
How did they reach you (the water Board) and not us?
They had met, why were we not there?

The only information we received is about the water sector reform. This was the only information that was transmitted. Isaac Ruto (accompanying the consultant) was the one who came.

We do not know where the water passes, so how can they respond about where it goes and how/what compensation should be addressed?

4. On the map showing Sengwer area, it was said that the Sengwer have a map showing the area that belonged to them. They used to live here (Kapcherop). Everyone knows this.
5. On benefits to women, the women confirmed that it should save them time in fetching water. There are no negative impacts. But men added some negative impacts. As follows:

Negative impacts:

- There should be soil erosion
- payment is negative for me because now women fetch water free!!
- Increase of mosquitoes – so remedial measures need to be put in place
- wildlife exists and should destroy the water works
- Who should take care of the source?
- No dam provision

Positive Impacts

- Milk cows can get water nearby
- Grandchildren should not be left for grandfathers while the daughter or daughter-in-law goes to the river to fetch water.
- Washing daily because water is nearby, therefore, there should be improved personal hygiene
- Clean water to drink so fewer ailments
- increased irrigation

But Mr. Ruto corrected that the water was not meant for irrigation since it was not even adequate for domestic use.

6. On protecting ancestral land from intrusion/encroachment, these were the responses:

“Before the coming of the Europeans, this was Sengwer land including the areas that have been set aside for a forest, so the benefits should go to the Sengwer ...Wherever the water

passes, I as a Sengwer should be paid ..Wildlife and other forest resources should also benefit from them (forest resources)”.

“Some water is taken away and the owners do not get any benefits. Which means, if we want clean water, we have to go to Eldoret. Is this fair. “Bargaining power is needed”.

“You say a person has been killed during the construction of the road (this is in reference to the information provided earlier). Who killed him? I would say he killed himself”. (The assumption here is that the person came without proper consultation being done and so was responsible for his own death).

“Public days are needed to inform everyone about the project”. “When you (LVNWSB) came to talk about this water, nothing was transparent about the whole process. Let us talk about who should be responsible. You said that a proposal was prepared without any consultation being carried out. How is this possible?”

“Addressing historical injustices with regard to ancestral land is critical”.

“This is “*maji asilia*” (‘indigenous water’) and we must understand everything because our water should not be taken away. We are the ones who know how to take care of our natural resources. We should do agreement with the Water Board”.

“Water Board needs to get closer to the people in its areas of jurisdiction”.

We need to know, “should there be metres?”

“Water Board covers 19 districts. How did you (LVNWSB) get to the point of agreement without consulting us?” I hope you (Mr. Ruto) have learnt that it is important to consult with stakeholders. Stakeholders are the right association. Communities have rights and these are protected legally”.

“Those registering associations in the names of others should be exposed and punished”. (Apparently some people have registered an association in the name of the Sengwer without informing them. The assumption was that they were doing it fraudulently and the purpose is to fleece the Sengwer).

Many basic questions were asked which could have been answered if consultation had taken place.

7. To reduce negative impacts, the discussion went like this:

“There are no shortcuts. Impact assessment should be carried out. Openness should be increased”

“A memorandum of understanding (MOU) should be put in place”.

“We must fully understand everything because the time of signing something without understanding it is long gone”.

“I should first drink the water before it is given to somebody else”.

“I still do not understand where the water comes from and where it flows to”.

The Sengwer complained that water from their areas is going to other areas yet they also do not have water. They find this unacceptable. They advice that “All should be consulted for fairness and security to be realized”.

8. Since no consultation has taken place, there were no cultural or any other benefits to be identified.

9. Ideas for consultation were given and they recommended that consultation should be carried out in different stages as follows:

- a. Meetings should be held with the entire community
- b. Have the community suggest Water Association for the Water Board to work with on behalf of the community.
- c. You must first consult with Indigenous peoples and then the larger community
- d. Culture and resources cannot be separated since they go together

Since there was no representative from Kapcherop (Marakwet or Sengwer) in the water board, the community wondered how they can relate and consult with the board. They had asked that one board member should come from the area.

10. On capacity building, they suggested the following:

- a. The board should send people for training to be taught how to carry out different tasks relating to planning, monitoring and evaluation.
 - b. Training courses and workshops to be organized at the community level.
- They pointed out that before it was only the town that benefited from such courses.

Proper consultation was stressed over and over again and so was the need for a code that identifies the Sengwer as a distinct indigenous community, not as part of “others”.

On the a map showing Sengwer’s traditional territory, it was confirmed that maps are available, some people have them, particularly in Kapolet. However, everyone including the Marakwet present at the meeting seem to know what lands belonged to the Sengwer.

Meeting with Sengwer Women (4th July, 2007 Kapcherop)

There were only two Sengwer women present at the meeting and they were Jane Rotich Lagat (tel. 07228-688495) and Paulina J. Kosgei. They clarified the cause of the complain about an association being registered in the name of the Sengwer when they (the Sengwer) are unaware. It was later that it was discovered that a Luhya, a Sabaot and Marakwet included a few Sengwer in an association they registered purporting to serve the Sengwer. The information was leaked and the group were exposed. There was conviction that the intention is to use the name of the Sengwer for personal reasons and not for the benefit of the Sengwer.

The women also stressed that they need water jars or tanks if the water is to be rationed because it would not solve their problem of taking a long time going to and from the river to fetch water.

Meeting with Sengwer men alone (4th July, 2007 Kapcherop)

Sengwer men raised the following concerns relating to their status in Kapcherop:

1. Leadership positions are only for Marakwet so the Sengwer are not represented politically at council or parliamentary levels.

2. Lack of employment because the Marakwet are dominant and they only employ their own people.
3. Exclusion from bursary distribution.
4. Misrepresentation and misuse by the dominant groups for personal gain, and taking advantage of illiteracy of the Sengwer.
5. Denial of existence so that resources are expropriated without the Senger getting a share.
6. Map of their area is changed to reflect the present reality.
7. Lost most of their land through trickery including the following:
 - a. The Pokot begged for grazing land during drought conditions and agreement was reached between chief Lokuk of West Pokot and Kiptise of Sengwer for leasing some lands, e.g at Kapkanyar, seasonally but with clear instructions not to cut any trees because they use them for hanging hives. The Pokot were to depart after the drought. Then when Lotodo was the Member of Parliament he influenced the processing of title deeds for Pokot.
 - b. The Sengwer were evicted from Tranzoia to make room for white settlement, e.g. at Kapsara. Those areas were never given back to the Sengwer; instead they were sold or given to others. Other portions of those lands, e.g Chebai were taken by the County Council of Keyio/Marakwet, first to be made tea demonstration farms and later sold or given to Marakwet. The Marakwet were imported to come and settle on Sengwer land.
 - c. The first president, Jomo Kenyatta ordered that cultivated lands be fenced off, and those Sengwer lands were taken for good.
 - d. The former President Arap Moi stated that the Sengwer deserve three quarters of their former lands vacated by white settlers, such as the land now popularly known as the Duke of Manchester. But the then Provincial Commissioner (Chelanga) lied to him that allotment letters were issued to Sengwer. The truth is that, it was only five acres that were demarcated for them.
 - e. Land control Boards, according to the Sengwer are a means of fleecing them of their land, since they do not control further losses.
8. The LVNWSB is also seen to be playing tricks by pretending that consultation has taken place with regard to the water project whose source is in their heartland.
9. Sengwer says that they have been invaded from all sides, and are scattered among the Pokot, the Marakwet and Keyio. And being uneducated and unrepresented politically, they are not able to present their grievances anywhere.

Minutes of meeting held on 11th September at Talau

The consultant briefed the meeting and told them that she had met the Sengwer in other areas namely Kabolet, Kapcherop, and Kapsowar. She informed those present that people on these areas had complaints. She informed them that no project will be started without consulting people around. She informed them that this meeting was part and parcel of the ongoing consultation process specifically targeted at the Sengwer of Talau. Mr. Isaac

Ruto and Mr. Owuor complimented the consultant by briefly describing the World Bank funded water project.

Participants who voiced their concerns included Mr. Simon, Mr. Kaptipin, Mrs. Restone, Mr. Benjamin Pyatich, Mr. Solomon, Mr. Jacob Pihana, Mr. Moses Setoo, Assistant Chief – Chepkoti, and Pastor Sammy. The issues raised by these participants are as follows

- Cherangani forest is ours and so is the water from the forest
- We are in the water catchment area
- We are asking for electricity.
- The water project is going to help us especially Chemwuyis project.
- The forest should be guarded by the government because it has Bongos (Siberia) and Baboons (Kimnyil)
- There is insecurity especially with the cattle rustlers. Cattle rustlers have guns, they kill our people even school children.
- We have no government officers
- We need our government to give us land from Trans Nzoia.
- Our children are not employed
- Help us with money for education of our children.
- Employ us as forest guards because we do not destroy forests
- Supply us with electricity
- God gave every community its own land
- We need our own district carved from Trans Nzoia, Marakwet and west Pokot districts.
- We need our own people to guard our forest.
- The L. Victoria North Water services Board did not consult the community
- Chemwaan water project has been funded by LVNWSB
- The Sengwer are not recognized as an ethnic community
- The elite from the community should be employed by the water services board so that the people can benefit.
- Our land was taken by the Europeans
- We need students to be sent for courses on water
- Students who are learning should be helped with bursaries
- We have suffered a lot since colonial days
- We were chased from the forest to the hills
- During independence there was no compensation of our land. On the contrary other communities were given our land
- We need our own division
- We have not enjoyed the fruits of independence
- Our land was Trans Nzoia
- Our houses were torched by the colonist, we were divided into three districts: West Pokot, Marakwet and Trans Nzoia
- We are now divided by the forest which have now become home for the cattle rustlers
- Benefits accruing from the forest should benefit us
- Water projects should help to sponsor our children up to college level
- The forest is ours
- The Pokot take their cattle to graze in the forest
- We are asking for finance for educating our children
- We are asking world Bank to help us

- We have not been given enough land by the government, we are ignored
- Help us. You are just like our good Samaritan.
- We are using maize to educate the children;
- We have a lot of problems e.g. cattle theft and as a result it is difficult to educate our children
- The big tribes wants us to be evicted from Trans Nzoia and Marakwet

Minutes of meeting held on 12th September at KAIBOS LOCATION

Mr. Owuor talked about the water project and informed participants at Kaibos about what he heard from the Sengwer at Talau. In particular he talked about LVNWSB and other water boards and emphasized the need to consult people under World Bank funded projects.

The Sengwer narrated how the colonial government and independent governments chased them from their dwelling places in forests. They narrated how they lost most of their lands upon which they practiced their livelihoods of hunting and gathering. They said that they want their own district and constituency in order to attain some measure of representation in government and administration. They narrated how they lost land that they were given by the former president (Moi). The president had given them the whole of Kabolet and the Duke of Manchester ABC farm. They demanded to have these lands back.

Dr. Naomi Kipuri introduced herself and stated that she had talked to the Sengwer at Kapsowar, Kapolet, Talau and Kapcherop. She reiterated that all the Sengwer people have their common views.

Mr. Solomon talked about the Chamwaan water project and other water association in Kaibos sub location formed by the people. He also talked about Agriculture projects in the area, about forest Association and women groups. He talked that the Sengwer number about 70, 000 and deserve their own district. He further stated that they need an agreement together with the Lake Victoria water Board.

Those whom presented their view included Bishop Barnaba Meugich, Samuel Kibor, Mr. Joseph Kiptoo, Madam Patricia, Madam Cheremum, Assistant Chief – Kaibos, Assistant Chief – Kipkoringa, Mr. Tulia, and other. The views they presented are

- We have lost our livestock to Pokot and Marakwet cattle rustlers and therefore request the government to carve a district for us and provide security. The forest had become refuge to cattle rustlers who hide there.
- They want chiefs and sub-chiefs from their own community. Many of Sengwer locations are not administered by their own tribal chiefs. Pokot have taken two of their locations because the chiefs in those locations are not Sengwer. The Sengwer are scattered in west Pokot, Marakwet, Keiyo Trans Nzoia.
- We cannot present our complains and heard by the government because the other tribes do not recognize us as a tribe.
- We are appealing to the World Bank to fund our university students for parallel or major university.
- In church affairs we have no a permanent building in our churches. We also appeal for help from any funds if the World Bank can help us get money.

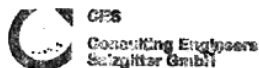
- We are also asking for help in security purposes if there is.
- We are asking for help to help build a boarding secondary school, please we need a direct fund from the World Bank for girls boarding secondary school.
- Our area is good for agriculture but we cannot do without money. E.g. for farming horticulture. If the World Bank at all has help for agriculture projects then it can help. We have our own culture and our cultural centre at Kabolet. We need another one here at Kaibos but we cannot build it without being funded, so we cannot have it by now even if we are rich in culture.

From Mr. Owuor stated that some of the issues raised by the Sengwer did not concern their visit but something like security can be taken note of.

Dr. Naomi clarified that she was not working with the World Bank. However, she advised the Sengwer to seek legal redress to solve some of the problems facing them and to participate in international meetings of indigenous peoples

Annex 6: Previous consultations, correspondence and agreements

**JOINT VENTURE
WATER SUPPLY & SANITATION PROGRAMME
NZOIA CLUSTER – KITALE, WEBUYE, DUNGOMA – PHASE I, STEP 1 & 2**



MANGAT, I.B. PATEL AND PARTNERS

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Ref. No. 446/06/M376/MSB/CWW

Chief Executive Officer,
Lake Victoria North Water Services Board,
P.O. Box 673 - 50100,
KAKAMEGA

Attention Eng. Diru Magomere

19th September, 2006

Dear Sir,

**WATER SUPPLY & SANITATION PROGRAMME
NZOIA CLUSTER – KITALE, WEBUYE, BUNGOMA – PHASE I, STEP 1 & 2
CONTRACT No. NC/Ph I (1 & 2)/01**

**ENVIRONMENTAL IMPACT ASSESSMENT OF THE PROPOSED REHABILITATION AND
AUGMENTATION OF KITALE WATER SUPPLY**

**MINUTES OF THE 2ND STAKEHOLDERS' MEETING HELD ON 23RD AUGUST 2006 HELD
AT THE KITALE GOLF CLUB, KITALE TOWN**

Attached herewith are the Minutes of the above Stakeholders Meeting. These Minutes will form part of our Submission for the Environmental Impact Assessment Report.

Please peruse and let us know if you have any comments as soon as possible.

Yours faithfully,

M.S. BHACHU
For and on behalf of
CES/GFA/MIBP JV

c.c. The Regional Director,
KfW / DEG Office,
P.O. Box 52074, NAIROBI

Attention: Dr. J. Dux

Encl.

WATER SECTOR DEVELOPMENT PROGRAMME
NZOIA CLUSTER PHASE I – STEP 1 and 2
KITALE, WEBUYE AND BUNGOMA

KITALE WATER SUPPLY

ENVIRONMENTAL IMPACT ASSESSMENT OF THE PROPOSED
REHABILITATION AND AUGMENTATION OF KITALE WATER SUPPLY

MINUTES OF THE 2ND STAKEHOLDERS' MEETING HELD ON 23RD AUGUST
2006 HELD AT THE KITALE GOLF CLUB, KITALE TOWN

PRESENT:

<u>Name:</u>	<u>Organisation Represented</u>
1. Joseph P. Murunga	Chairman – Lake Victoria North Water Services Board (LVNWSB)
2. Eng. David Kimingi	Technical Manager, LVNWSB
3. Eng. Claude Busieney	Assets Manager, LVNWSB
4. Augustine C. Loile	Director, LVNWSB
5. Boniface Wanyonyi	LVNWSB
6. Abongo Amos Elly	LVNWSB
7. Omina Benson	LVNWSB
8. Eng. Samuel Gitanda	Ag. Managing Director, Nzoia Water Services Company Limited (NZOWASCO)
9. Rosemary Kungu	KfW, Nairobi Office
10. Malaquen Milgo	GTZ, WSRP, Nairobi
11. Eng. M.S. Bhachu	CES/GFA/MIBP JV, Consultants for Nzoia Phase I Project
12. Eng. Martin Laaser	- Ditto -
13. Eng. R.S. Rupra	- Ditto -
14. Sharon Gordon	- Ditto -
15. Henry Kendagor	- Ditto -

16.	Gilbert Maiyo	- Ditto -
17.	Cllr. Patrick Lel	Kitale Municipal Council
18.	Patrick W. Kamwessar	Nzoia County Council
19.	Susan N. Mbugua	Water Resources Management Authority (WRMA), Trans-Nzoia
20.	Joab M. Obam	WRMA – Trans-Nzoia
21.	B.A. Kowala	Deputy District Water Officer
22.	Joseph S. Watele	Chief – Cherangany, Sitatunga Location
23.	Godfrey Wafula	National Environment Management Authority (NEMA) – Trans-Nzoia
24.	Benjamin Pyatich	Cherangany Community
25.	Solomon Cherongos	Cherangany Community
26.	Rev. Sammy Koskei	Cherangany Community
27.	James K. Sitienei	Cherangany Community
28.	Jacob K. Chelol	Cherangany Community
29.	Jacob K. Tekeroi	Chairman, Sengwer Community
30.	Barnabas Nesenuoo	Sengwer Community
31.	Wilson Dieleu	Sengwer Community
32.	Paul Rito	Sengwer Community
33.	David Yator	Sengwer Community
34.	Allan Ojiayo Abongo	Sengwer Community
35.	Charles Kiberen	Sengwer / Cherangany Community
36.	Richard Kiptu – Kipkeiyo	Sengwer / Cherangany Community
37.	Dickson Rotich	Sengwer / Cherangany Community
38.	Moses Lelev Laima	Sengwer / Cherangany Community
39.	Richard Odhiambo	Kitale Community

40.	Masibo Nelson	Kitale Community
41.	Rose Maleya	Women Representative, Kitale – Social Service
42.	Charles Maina Warila	NGO – TAA
43.	Barnabas Mutumbi	KMC
44.	Eddah Ruchika	Kenya News Agency
45.	E.A. Busaka	DPPO
46.	Willy K. Serem	Ag. Kaplamai Water Users
47.	Patrick B. Song	DPHO

Photographs taken during the Proceedings of the Meeting are attached herewith as Appendix '1'.

Item Minute

- 1.0 The meeting started with prayers, followed by an introduction by Mr. Joseph Murunga, Chairman of the LVNWSB. He welcomed all participants and introduced all present LVNWSB staff, the Consulting Engineer's Team - CES/GFA/MIBP JV, KfW and GTZ representatives. He commented that under the Water Act, 2002, Section 29, Sub-Section (4), consultation with Stakeholders is a legal requirement. The copy of Letter of Invitation to all Stakeholders is attached herewith as Appendix '2'.
- 2.0 A formal introduction of all present was conducted. See Appendix '3' – Copy of Attendance List.
- 3.0 Eng. Bhachu introduced the Project and made reference to the Project Brief. Eng. Bhachu also stated that the existing Nzoia Intake for Kitale Township Water Supply will be strengthened and the Raw Water Pumps, Water Treatment Works, Treated Water Pumping Main etc, rehabilitated to operate at optimum design capacity. There are no environmental impacts for this part of the Project. See Appendix '4'. This was followed by a presentation on the Environmental and Social issues by Sharon Gordon and Eng. R. S. Rupra. See Appendix '5'.

After the presentations, the Participants were asked to seek any clarifications / queries, etc.

Item	Minute
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4.0	A Question and Answer session followed:
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Q4.1	Concern was expressed over the use and disposal of chemicals particularly from the Intake Site, at the Water Treatment Works Site and in general:
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A4.1	An explanation was given as follow: -
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Intake Works: It is a run-of-the river scheme with a very small structure and chamber proposed to be constructed for transmission of 'raw' water to Water Treatment Works Site. No chemicals will be used.

Treatment Works Site: At the Treatment Works Site, the commonly used chemicals are soda ash and aluminium sulphate for precipitation of impurities which are removed in the filters. Disinfection is done by chlorination. The only water discharged back into the River will be backwash water from filters which will virtually have no chemicals. As a further protection, a holding pond will be constructed before discharge to the river.

Any sludge remaining after use of solutions of above chemicals will be buried in pits on Treatment Works Site.

Q4.2	Query was raised for accessibility of treated water beyond a corridor of 1 Km along the treated water transmission line.
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A4.2	The Consultants explained that the Project Fund available is for the Municipality of Kitale. If majority of treated water is consumed en-route, then Kitale will not receive the desired quantity.
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It was further clarified that once the Scheme is operational, individuals or communities should approach the Service Provider, NZOWASCO who can consider metered supplies in bulk.

Q4.3	While it was understood that most of the transmission line would be adjacent to the road, what would happen to the sections where there was no road and the pipeline needed to cross people's shambas?
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A4.3	Crossing of people's shambas / land is minimal. Where possible, all crossings would be along fence lines and existing roads and boundaries. Adequate compensation would be paid for any disturbance during construction.
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Item Minute

Q4.4 What provision will be made for people in the Upper Catchment requiring potable water?

A4.4 *It was explained that residents around the Water Treatment Works will get treated water by gravity. A storage tank will be built for this purpose.*

If water is needed by a community in a higher elevation zone, then they have to apply to NZOWASCO and perhaps water can be pumped there.

A number of rural / urban projects area already being considered for funding in the area (e.g. Kapenguria / Makutano, etc.).

A number of clarifications / points were raised by representatives of the ^W SENGWER ETHNIC MINORITY INDIGENOUS PEOPLES. They had written to LVNWSB with copies to quite a few other Organisations / Government Ministries, copy of the letter attached as Appendix '6'. 2

1. First and foremost, it was clarified that there is no dam being constructed on River Kapolet.

It is a run-of-the-river scheme with a very small Weir Intake.

2. None of the residents will be displaced.

3. The Intake is almost at the edge of the ^{7 Kapolet} Kiptaber Forest, and not inside.

4. Hydrological studies have been done and submitted to Water Resources Management Authority (WRMA). It recommends only 70% of the 98% Probability (1 in 50 years) Flow to be abstracted. 30% of low flow will be for downstream users, which will increase further down because of increase in catchment area.

Q4.5 A representative from the Indigenous People of Sengwer Community commented that while the presentation on the potential social and Environmental Impacts of the Project are appreciated, the presentation only touches slightly on issues raised in their letter to LVNWSB. The indigenous community have concerns and have their own plans and agenda for the River Kapolet. And if this Project goes to implementation stage, the impacts will affect the Indigenous Peoples plan for River Kapolet and the area.

A4.5 *The Chairman thanked the Sengwer Community for the Letter and concerns. However, it was important for the Community to understand that firstly the Urban Water Supply Project for Kitale should be allowed to proceed. Other Rural Project Proposals should be submitted to LVNWSB for consideration. Furthermore, development plans for the Sengwer Community should be parallel to National Development Plans for Kenya.*

Item Minute

Q4.6 Another representative from the Sengwer Community commented that the Kenya Government is a signatory to a treaty on Indigenous Peoples and this calls for:

- Free prior informed consent on any Project and
- Environmental Impact Assessment for any new Project.
- Everybody must understand that the Community has a cultural and spiritual attachment to the Kapolet River and forest. Historically, the Sengwer Community were evicted from the forest in the 1930s and forced to assimilate into the neighbouring people. This has actually resulted in the destruction of the Forest but the Sengwer Community have written to the District Forest Officer, but nothing has happened. There is collaboration between Municipal and other Officials in the destruction of the forest. Thus in another way, the Project has come at the right time. The Sengwer Community have been disenfranchised and do not have a leader who is higher than Councillor Level.

A4.6 *The Chairman again thanked the Community for their clear explanation and commented that it is clear that there are emerging leaders among them. He recommended that they participate in the formation of the Catchment Protection Association (CPA) and decide where and when future meetings would be held, in order to air their grievances for relevant Authorities to take action.*

Q4.7 The ½ Km wide buffer zone proposed in the Presentation by the Environmentalist suggesting that it comprises of indigenous and exotic species is strange because the community believes that the whole forest and the land the forest is on, is theirs anyway. The Municipality of Kitale is partially responsible for the destruction of the forest – basically it is the people who are money-hungry. Rather than ½ Km wide buffer zones, money for education and health is required to better the lives of the people in the Community. They require jobs (manual jobs) and the proponents need to remember that the rural people should benefit as much as urban people. The Project should uplift and improve the standard of living for all.

A4.7 *The limitations of the Project were explained in that it was primarily a water project that should improve water supply, distribution and wastewater disposal for Kitale Municipality residents. See also CONCLUSIONS. Notwithstanding this, it was explained that the Tenderers have been instructed to source as much as required of their labour from local population. The Supervising Engineer to ensure this.*

Item Minute

Q4.8 The water from the Kapolet River comes from the Sengwer Community people's land and while the community wants everyone in Kenya to benefit, further discussions should be held. Meetings should be held and agreements reached before any work is embarked on.

A4.8 *The Chairman assured that further Meetings would be held, as necessary but that the existing Project should not be held up, because the 'No Project Option' can be disastrous for residents of Kitale and the environs.*

Q4.9 The Marakwet Council has been several times to the LVNWSB to have discussions but they have not been forthcoming. What is required is a Memorandum of Understanding (MoU) in order to ensure that the wealth is distributed equally.

The Chairman again assured the Sengwer Community that Meeting(s) will be held to discuss the issues pertaining to their Community.

A4.9 *The answer to Question 8 was again repeated.*

Q4.10 The Project could result in "meaningless kiosks" (Willy Kipkorir/ Serem – 0724798764) along the water transmission route. This is because there are at least 7 Water Projects along the proposed / existing route and what is required is pipe connections to these projects, not kiosks.

A4.10 *It was commented that the details of 7 existing Projects would be collected and analysed. While it was planned that the water kiosks would be approximately every 1 Km along the corridor of the transmission line, it was also important that they link with existing community points, centres, schools, medical and trading facilities. NZOWASCO as the Service Provider should be contacted if bulk supplies were required for any Community Project.*

Q4.11 How much has been budgeted for on this Project? How many people will benefit? What plans are there for sewage?

Q4.11 *The time horizon for Bungoma and Webuye is 2015, while the time horizon for Kitale is 2025. The first priority is to get the old schemes operating to their optimum design capacities. Funding is approximately Euro 20 million for all three Towns with a contribution of Euro 3.5 million from GoK. It is estimated that approximately 200 000 people will benefit in Kitale and approximately 100,000 each in Bungoma and Webuye.*

CONCLUSIONS OF THE MEETING

It was stated by a representative of the Sengwer Community that they accept the Project to proceed but everyone should understand that they have been discriminated against and meeting with the LVNWSB is urgently required to move forward.

The District Environmental Officer made a statement that the purpose of this Stakeholders' Workshop is to gather opinions. The people who have been invited are considered to be representing their wider communities. These opinions and views will be incorporated into the Environmental Impact Assessment Report to minimize or negate negative environmental impacts.

Finally, it was stated that all the Participants, in particular the Community do not have objections to the whole Project but do have a number of small reservations.

The representative from GTZ commented that everyone had now heard of the potential impacts and mitigation measures. He advised that Catchment Protection Association (CPA) should be formed and once that has been done, they can present themselves to the Water Resources Management Authority (WRMA) and they may be able to obtain funding for some of their activities. However, it should be remembered that this Project is limited to the Water Sector and cannot be used for funding other Sectors, such as health, education, etc.

The Meeting was considered successful and it was agreed that further meetings would be held with the LVNWSB in the future.

The Meeting was closed with prayers, recited by one of the Stakeholders.



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DARD

LAKE VICTORIA NORTH WATER SERVICES BOARD

P.O. BOX 673 - 50100

KAKAMEGA

TEL: 056-30795, 31552 FAX: 056-31506

E-mail: info@lvnwsb.co.ke

Ref. No.: LVNWSB/HQS/NC/CW/PHI STEP(1&2)ADS/18/VOL.I/155

Date: 16th November 2006

To:

- Dr. J. Dux - KfW - Nairobi
- Chairman Lake Victoria North Water Services Board
- LVNWSB DWO
- NZOWASCO
- Eng. M. Milgo
- R. S. Rupra
- J. M. Ngugi
- Godfrey W. Wafula
- Geoffrey Kihunji
- Bernard Githaiga
- Trans Nzoia
- Kitale - Obatsa Levy
- GTZ WSRP - Nairobi
- CES/MIBP JV Consultant Nairobi
- District Water Office Trans Nzoia
- District Environment Officer - T
- District Office
- District Co-ordinator - Water R

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resources
VT/Nzoia

- Mcobiero T. O.
- Joshua Siriba
- Roselyne Lunyolo
- Moses C. Kosgei
- Patrick Bosire
- Joram Kimani
- Daniel K. Rono
- Jacob K. Tekeroi
- James Kaptipin
- Other Stakeholders from the Area
- Enforcement Officer - WRMA
- WRMA - Kitale
- Water Bailiff Trans Nzoia
- Chief Makutano Location
- Chief Motosiei
- Asst. Chief Kapsara
- Asst. Chief Biribiriet
- Chairman, SENGWER FARM
- Vice Chairman SENGWER FARM

Dear Sir/Madam

RE: ENVIRONMENTAL IMPACT ASSESSMENT STUDY

Attached find Minutes of the 3rd stakeholder meeting held at Kapolet on 2nd October 2006 to resolve issues raised by Sengwer Community for your information and record.

Yours faithfully


ENG. DAVID KIMINGI
For: CHIEF EXECUTIVE OFFICER



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NZOIA CLUSTER PHASE I – STEP 1 and 2
KITALE, WEBUYE AND BUNGOMA
REHABILITATION AND AUGMENTATION WORKS
CONTRACT No. NC/Ph I (1 & 2)/01
ENVIRONMENTAL IMPACT ASSESSMENT STUDY

**MINUTES OF 3RD STAKEHOLDERS MEETING HELD AT KAPOLET
ON 2ND OCTOBER 2006 TO RESOLVE ISSUES RAISED BY SENGWER COMMUNITY**

PRESENT: -

<u>NAME</u>	<u>ORGANIZATION</u>
1. Joseph P. Murunga	- Chairman, Lake Victoria North Water Services Board (LVNWSB)
2. Eng. Diru Magomere	- Chief Executive Officer, LVNWSB
3. Eng. David Kimingi	- Technical Manager, LVNWSB
4. Bonface Wanyonyi	- F&AM, LVNWSB
5. Eng. Claude K. Busieney	- Asset Dev. Manager, LVNWSB
6. Wafula Wasike	- LVNWSB DWO - Trans Nzoia
7. Obatsa Levy	- Nzoia Water Services Company Limited (NZOWASCO) - Kitale
8. Eng. M. Milgo	- GTZ WSRP - Nairobi
9. R. S. Rupra	- CES/MIBP JV Consultant Nairobi
10. Martin Laaser	- CES/MIBP JV Consultant Nairobi
11. J. M. Ngugi	- District Water Officer Trans Nzoia
12. Godfrey W. Wafula	- District Environment Officer - T/Nzoia
13. Geoffrey Kihunji	- District Office
14. Bernard Githaiga	- District Co-ordinator – Water Resources Management Authority (WRMA) Trans –Nzoia
15. Mcobiero T. O.	- Enforcement Officer - WRMA
16. Joshua Siriba	- WRMA – Kitale
17. Reselyne Lunyolo	- Water Bailiff Trans Nzoia
18. Moses C. Kosgei	- Chief Makutano Location
19. Patrick Bosire	- Chief Motosiei
20. Joram Kimani	- Asst. Chief Kapsara
21. Daniel K. Rono	- Asst. Chief Biribiriet
22. Jacob K. Teketoi	- Chairman, SENGWER FARM
23. James Kaptipin	- V. Chairman, SENGWER FARM

1.0 Sengwer Community Views

- The Sengwer Community Representatives expressed concern that the Community was not involved in project planning initially.
- The meeting with DC earlier decided water project to go on as the administration looks into Sengwer issues of Land and Code for their tribe.

Thus the meeting requested to:

- (i) Educate the Community about the project so that they can understand well about the project
- (ii) Buffer Zone

Administration Issues

- (iii) Security issue – The Community requested to be provided with Kenya Police Reservist
- (iv) ID discrimination
- (v) Not recognized as a community

Consultants gave an overview of the project as follows:

- The Project is called Nzoia Cluster Phase 1 &2 and covers the Municipalities of Kitale, Webuye & Bungoma. The aim of the project is to expand the faulty water supply facilities to these towns.
 - Consultants said it would be ideal to provide a buffer zone of ½ km from the current forest boundary to protect the forest from encroachment
 - Arising from concerns raised during EIA meeting in Kitale, the Donor together with LVNWSB will be supporting six schemes to get water supply under the project.
 - Sengwer water project can also be accommodated within the existing projects to be supported.

Questions

Solomon Cherongis, one of the Participants

Q1. He said meeting was not in line with what was agreed in Kitale. He said he expected only LVNWSB to be present without involvement of the local administration required

Ans. The DO clarified that the meeting was between Sengwer and LVNWSB and the local administration was acting as an observer to facilitate dialogue between all parties.

Q2. The Sengwer felt that the local administration should address their Land problems first. They claimed that the land given under Phase I has no allocation letters and Land promised under Phase II is not clear to them.

Other Stakeholders from the Area

24. John R. Kipsagas
25. William Kipkwen
26. Thomas C. Kiberenge
27. Barnabas Ngesemuro
28. Peter Masai
29. Vincent Kitiye
30. Lasaro
31. Rotich
32. Daniel Tirokwang
33. Samuel Ngetich
34. Jacob Rotich
35. Philip Mangot Pchana
36. Joseph Cheruiyot
37. Machiel Kiplangat
38. J. K. Kiptoo
39. Dickson K. Rotich
40. Daniel Kiptoo
41. Dickson K. Rotich
42. Daniel Kiptoo
43. Mika Arapkorir
44. Patson Kibet
45. William K. Kiptoo
46. Jacob K. Chelol
47. **Solomon Cherongis**
48. Peter Chesum
49. Cheputei Koin
50. William K. Kiprono
51. Francis Sirma Chelol
52. Paul Chui
53. Julius Lokamuria
54. Elijah Limasia
55. William K. Kainyan
56. David K. Kiprop
57. Ismuel Okhusoud
58. Catherine Cheskemai
59. Marriya Musungu
60. Mourice Chepkoto

61. Roseline Torotich
62. Julius Loriam
63. James Sitienci
64. Gabriel Chapliteng
65. John Kipkurui
66. Kiplangat Chrlimo
67. Elijah Maritim
68. Kkipkeny Rotich
69. Thomas Yator
70. Kak
71. William Kauyani
72. Stephen Kipsor
73. Marko Yarajir
74. Thomas Akoripeta
75. Akober Akuro
76. Elias Kurgat
77. Joel Koros
78. Stephen Kisang
79. Wilson Cheruot
80. Penson Retabus
81. Samson Ruto
82. Joseph Kipkikorir
83. Berur Francis
84. Joseph Kimtsto
85. Elijah Limasia
86. William K. Kainyan
87. David K. Kiprop
88. Ismuel Okhusoud
89. Catherine Cheskemoi
90. Marriya Musungu
91. Mourice Chepkoto
92. Roseline Torotich
93. Julius Loriam
94. James Sitienci
95. Gabriel Chapliteng
96. John Kipkurui

2.0 Chairman, LVNWSB clarified the above issues

The Chairman explained that it was not within the domain of the Board to resolve land issues. It was resolved that the DO holds a meeting with the Sengwer Community to resolve land issues.

The NEMA representative present explained to the community the environmental benefits of the forest.

The WRMA representative present Congratulated Sengwer community (stakeholders involvement) in conserving the Kapolet Forest. He explained the New Water Act 2002 requires the community to form Water Resource Users Association (WRUA). He promised to assist them in the formation of their WRUA.

3.0 Concluding Remarks – Chairman, LVNWSB

The meeting ended with the Chairman requesting the Sengwer community to protect the Catchment area of River Kapolet. He told them that if they formed a Water Users Association of Kapolet River, they could easily access assistance in the conservation of Kapolet Forest. He urged the leaders (e.g. John, Korenchi, Solomon, Yator, Barnabas Samuel) to come together as leaders of the community to take time to read Water Act 2002 and inform women and men of Sengwer community about water it.. He informed them that Water Permits are given by GoK(WRMA)

He said with the Project there will be improved roads and power will be available near the Treatment Works for the water supply unlike at present. Also their hygiene standards will improve considerably within the Community due to availability of treated water.

4.0 Remarks - Milgo Malekwen – GTZ

Eng Milgo asked the community to address their land issues and lack of National IDs to the relevant authorities. He said the project could assist with the water needs of Sengwer Community where possible.



Notes by: Eng. C. Busieny



LAKE VICTORIA NORTH WATER SERVICES BOARD

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✓ Ref. No.: LVNWSB/HQS/NC/CW/PHISTEP(1&2)ADS/18/VOL11/5

Date: 29/1/2007

To:

1. Kfw-Attn: Dr Dux
2. World Bank Attn: J.Karauri
3. GTZ-Attn Eng.Milgo
4. District Commissioner-Trans Nzoia
5. District Officer One/ DO Kaplamai
6. Local Chiefs
7. Local Community Leader
8. Chairman Lake Victoria North Water Services Board
9. Mr. Augustine Chemonges Loile – Director Lake Victoria North
Water Services Board
10. Regional Manager Water Resources Management Authority
11. Mayor Kitale Municipal Council
12. MD-Nzowasco
13. District Development Officer
14. District Forester
15. Town Clerk Kitale Municipal Council

- 16.CES/GFA/MIBP consultants
- 17.PS Ministry of Water and Irrigation-Eng Simitu
- 18.Town Clerk Webuye Town
- 19.Nema Officer Kitale

Dear Sir / Madam,

WATER SECTOR DEVELOPMENT PROGRAMME
WATER SUPPLY AND SANITATION PROGRAMME
FOR
NZOIA CLUSTER PHASE I – STEP 1 and 2 CONSISTING OF THE TOWNS OF
KITALE, WEBUYE AND BUNGOMA
REHABILITATION AND AUGMENTATION WORKS
CONTRACT No. NC/Ph I (1 & 2)/ 01
SENGWER MEETING

We are the Proponents of the above Water Supply and Sanitation Project. This Project is financed by the Federal Republic of Germany through Kreditanstalt Fur Wiederaufbau (KfW) and the Consultants are CES Salzgitter / GFA Management / MIBP JV who are in the process of commencing Implementation stage of the project.

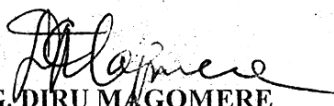
One of the Sources being investigated as long term Water Source for Kitale Water Supply Scheme is River Kapolet in Cherangani Hills. In order to sensitise the Stakeholders, a Meeting is called to iron out issues raised by the Sengwer Community
We therefore request you to be present

Venue : Functions Hall Kitale Club, Kitale

Date and Time : 6/2/2007 at 10.00am

Please confirm your attendance in order to finalise arrangements for the Meeting.

Yours faithfully,


ENG. DIRU MAGOMERE
CHIEF EXECUTIVE OFFICER

