

THE GOVERNMENT OF KENYA
MINISTRY OF WATER AND IRRIGATION

**WATER & SANITATION SERVICE IMPROVEMENT PROJECT
ADDITIONAL FINANCING (WaSSIP AF).**

DRAFT

INDIGENOUS PEOPLE POLICY FRAMEWORK (IPPF)

November, 2011



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GLOSSARY OF TERMS

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ACRONYMS AND ABBREVIATIONS

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EXECUTIVE SUMMARY

This Indigenous Peoples Planning Framework (IPPF) has been prepared to ensure that the World Bank's Indigenous Peoples policy is applied to WaSSIP AF supported projects. The objectives of the policy are to avoid adverse impacts on Indigenous Peoples and to provide them with culturally appropriate benefits. A parallel Resettlement Policy Framework (RPF) describes requirements to address social impacts from restrictions of access to natural resources as per the Involuntary Resettlement Policy (OP 4.12).

The Indigenous Peoples Policy recognizes the distinct circumstances that expose Indigenous Peoples to different types of risks and impacts from development projects. 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 limit their capacity to defend their rights to lands, territories, and other productive resources, and restricts their ability to participate in and benefit from development. At the same time, the policy, together with the Involuntary Resettlement policy, recognizes that Indigenous Peoples play a vital role in sustainable development and emphasizes that the need for conservation should be combined with the need to benefit Indigenous Peoples in order to ensure long-term sustainable management of critical ecosystems.

The IPPF describes the policy requirements and planning procedures that WaSSIP AF will follow during the preparation and implementation of sub projects especially those identified as occurring in areas where indigenous peoples inhabit.

This Indigenous Peoples Planning Framework (IPPF) relates to the Water and Sanitation Service Improvement Project (WaSSIP) Additional Financing (AF) which is being financed by the World Bank. The Ministry of Water and Irrigation (MoWI) through the Water Services Board Coastal Water Services Board (CWSB) Athi Water Services Board (AWSB) and Lake Victoria North Water Services Board (LVNWSB) remain responsible for implementing the WaSSIP (AF) including the provisions of this IPPF.

The project development objectives are to (a) increase access to reliable, affordable and sustainable water supply and sanitation services; and (b) improve 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 IPPF is to be used by the MoWI in order to ensure that the World Bank indigenous peoples policies, with emphasis on Operational Policy OP 4.10 (Indigenous People) are adequately addressed.

During project preparation, it became clear that the project might impact on indigenous peoples rights, lands, livelihoods and culture. To qualify for funding from the World Bank and following best practice documented in the World Bank's policy on indigenous peoples (OP 4.10), the Government of Kenya has commissioned the elaboration of this Indigenous Peoples Planning Framework (IPPF) to ensure that the development process fully respects the dignity, human rights, economies, and culture of indigenous peoples and that the project and its IPPF has broad community support from the affected indigenous peoples. To achieve this, this IPPF develops 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; and, (c) the IPPF aims also to ensure that the indigenous peoples receive social and economic benefits that are culturally appropriate and gender as well as intergenerationally inclusive. The IPPF is based on free, prior and informed consultations with indigenous peoples

The purpose of this IPPF is to ensure that management of issues related to indigenous people is integrated into the development and operation of projects to be financed under the WaSSIP AF to ensure effective mitigation of potentially adverse impacts while enhancing accruing benefits.

This ESMF has been prepared in compliance with the World Bank's Safeguard Policies and Kenya's Environmental Management and Coordination Act (EMCA) of 1999, both of which require environmental and social assessment prior to any investment. The IPPF recognises all World Bank (WB) safeguard policies relevant to indigenous peoples.

Preparation of the IPPF employed both desktop and field research methods, whereby project planning documents were reviewed to provide an insight into the scope, design and motivation of the project and later complemented by on-the ground observations and consultations with the indigenous communities.

Project Background

The Water and Sanitation Service Improvement Project (WaSSIP) will increase access to reliable, affordable and sustainable water supply and sanitation services; and improve the water and wastewater services in the areas served by the three Water Services Boards. At present, about 60 percent of Kenyans have access to safe drinking water while access to basic sanitation is at 80 percent. The project is expected to benefit about 9.3 million Kenyans in 27 districts with improved water and sanitation services, including residents of some of Kenya's largest urban informal settlements.

Water sector reforms since 2002 have included (i) the clarification of roles and accountabilities of sector institutions; (ii) the inclusion of multiple stakeholders in decision making processes of service delivery institutions; (iii) the financial ring-fencing of the operations of service delivery institutions; (iv) financial and technical audits of sector institutions' operations and performances; and (v) strengthened financial management and procurement capacity. The Bank supported these actions through the \$15 million Nairobi Water and Sewerage Institutional Restructuring Project which was completed in December 31, 2007.

The WaSSIP represents the second phase of the World Bank's support to the Government of Kenya's water sector reform. The project will consolidate, enhance and scale up these measures, improve the dissemination of information as well as strengthen the risk management and internal controls of water services institutions.

Project Description

The project comprises three components. These are:

Activities envisaged under the WaSSIP AF include:

Component 1: Support to the Athi Water Services Board. This component will support the rehabilitation and extension of water supply systems, including the development of additional water sources for Nairobi and other drought mitigation measures, and improvements in wastewater collection and treatment facilities in the jurisdiction of the Athi Water Services Board (AWSB). Technical assistance will also be provided to the AWSB and its water services providers, the Water Services Regulatory Board, and the Water Appeal Board.

Component 2: Support to the Coast Water Services Board. This component will support the rehabilitation and extension of water supply schemes, including drought mitigation measures and institutional strengthening of the Coast Water Services Board and its various water service providers.

Component 3: Support to the Lake Victoria North Water Services Board. This component will support the rehabilitation and extension of water supply schemes, including drought mitigation

measures and institutional strengthening of the Lake Victoria North Water Services Board and its various water service providers.

The Additional Financing will support all three project components (one for each WSB) and be used to expand the types of activities supported by the current project, specifically investment in water and sanitation infrastructure and support for strengthening of the water sector entities. Specifically, the water services boards have indicated that they need technical assistance to establish and operate a computerized complaints system, undertake energy audits, assess unaccounted for water, improve billing and collection, reform human resources management, map and model networks, improve communication and outreach, and align of sewerage master plans with urban and metro development plans.

This IPPF is prepared for the WaSSIP Additional Financing and will be complemented by two other safeguards instruments: Environmental Assessments (EAs) accompanied by Environmental Management Plans (EMPs) for each subproject identified under WaSSIP AF. A Resettlement Policy Framework (RPF) has also been prepared that provides standards and procedures for compensation for any land acquisition, assets, or restriction of access to resources that WaSSIP AF investment may require, in accordance with World Bank OP 4.12 – Involuntary Resettlement.

Rationale for Additional Financing, rather than alternatives

The proposed Additional Financing would finance additional investments to improve access to water and sanitation services, and the drought response measures will make these services more reliable. These investments would permit the scale-up of the project's impact and development effectiveness. The Recipient is fully committed to scaling up the project activities, and processing an additional credit would bring procedural and other cost-effectiveness gains for the Recipient, as compared to preparing a new project. Moreover, the scale-up of activities can be easily accommodated in the context of the ongoing project, as implementation will rely on the Recipient's existing capacity and existing project arrangements. Activities would be completed within three years of the original project closing date of December 31, 2012. Thus, the Additional Financing will require an extension of the current project closing date. The economic justifications of the additional activities remain the same as in the original project. The additional activities will not raise the environmental category of the original project (category B) or trigger any new safeguard policies. Several changes to the project's key performance indicators are proposed for the original project to reflect the Bank's core indicators. These will be also used to monitor the outcomes of the proposed Additional Financing including the outcomes of the drought response measures. Targets will be adjusted to reflect the impact of the Additional Financing.

Indigenous People Requirements

The Government of Kenya (GoK) by its national laws and the World Bank's Operational and Procedural Policies, specifically OP 4.10 (IPPF) requires the government to prepare an Indigenous Peoples Policy Framework (IPPF), which establishes a mechanism to determine and assess future potential social impacts of the MoWI planned investments/activities under the proposed WaSSIP AF on indigenous peoples.

Projects affecting Indigenous Peoples, whether adversely or positively, therefore, need to be prepared with care and with the participation of affected communities. The requirements include social analysis to improve the understanding of the local context and affected communities; a process of free, prior, and informed consultation with the affected Indigenous Peoples' communities in order to fully identify their views and to obtain their broad community support to the project; and development of project-specific measures to avoid adverse impacts and enhance culturally appropriate benefits.

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 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.

The draft IPPF report will firstly be made publicly available to project-affected groups and local NGOs in Kenya by placing a public notice in a national newspaper and making the report available at the offices of relevant government ministries.

OP 4.10 further requires that the IPPF report must be disclosed as a separate and stand alone by the Government of Kenya and the World Bank as a condition for Bank Appraisal of the WaSSIP AF. The disclosure of these documents should be both in locations where it can be accessed by the general public and local communities using the media, and at the InfoShop of the World Bank. The date for disclosure must precede the date for appraisal of the project. Following revisions, the IPPF will be officially submitted to the World Bank, and the final version will be disclosed prior to the Project being sent for approval to the Executive Directors of the World Bank.

I INTRODUCTION

This chapter describes the proposed WaSSIP Additional Financing (AF) project including the different components and activities and outcomes expected during the duration of the project.

Project Description

Country and sector context

With an average renewable supply of freshwater resources of less than 650 cubic meters per capita per year, Kenya is among the water-scarce countries in the world. Rainfall is highly variable both geographically and temporally. Over 80 percent of Kenya's territory is arid or semi-arid lands. With such scarce water resources, efficient allocation, utilization, and management of the available resources, including drinking water supplies, is critical. However, water resource management in Kenya has been characterized by many years of neglect in both management of resources and investment in infrastructure.

Kenya made substantial investments in production and treatment capacities during the 1980s and 1990s. However, due to inadequate management and maintenance, coupled with a lack of commensurate expansion in distribution networks, these investments did not result in efficient and sustainable service delivery. Consequently, by the start of the 2000s the infrastructure had significantly deteriorated. Management of water and sanitation services was not transparent. Responsibility for delivery of services was split among various agencies and organizations, often with overlapping mandates. This led to a lack of coordination and weak accountability.

The inability of the utilities to deliver adequate services has disproportionately hurt poor residents, especially those living in informal settlements¹. Poor people have increasingly come to rely on kiosks and private vendors for their water supply, paying much higher prices per cubic meter and spending much more time fetching water than those with access to piped supplies.

In 1999 the government adopted its new National Water Policy, setting ambitious targets for access to improved water and sanitation services. The Millennium Development Goals for Kenya are that 70 percent of the population should have access to safe water by 2015, while 93 percent should have access to improved sanitation. In 2000, about 51 percent of the population had access to safe drinking water, and 41 percent had access to improved sanitation.² The government realized that the targets could not be achieved without comprehensive reform of sector institutions and large new investments, and in response prepared the Water Act, which parliament enacted in 2002. The Act is one of the most far reaching and comprehensive reforms of the water sector undertaken in any country. The Act called for a completely new institutional setup, aimed at harmonizing and streamlining the management of water resources and water supply and sewerage services. A central tenet of the new service delivery framework is the separation of functions between each aspect of service delivery: policy making, regulation, asset ownership or control, and service delivery. This change was expected to reduce conflicts of interest and increase transparency and accountability.

Although more needs to be done, the new sector arrangements have led to much improved management of water and sanitation services. Significant progress has been made in increasing transparency and accountability. Service delivery institutions are subject to periodic technical and financial audits, the results of which are published on their websites. Customer and employee satisfaction surveys are periodically carried out, and their results made available to the public. These show increasing levels of satisfaction with services.

¹ In this paper, the terms informal settlements and slums are used interchangeably, and refers to areas that lack at least two of the following: secure tenure, adequate infrastructure, planning at the settlement level, and quality housing. About 30 percent of Nairobi's population lives in slums.

² World Development Indicators database.

The Government of Kenya's (GOK) National Water Policy (1999) envisages 100% access to safe water for the country's population by 2010. The Millennium Development Goals (MDG) envisages access to safe water and improved sanitation of 70% and 93% respectively by 2015. Current coverage figures are 49% and 86% respectively. During the 1980's and 1990's Kenya made large investments in water supply and sewerage (WSS) production and treatment capacities, but these did not result in efficient and sustainable service distribution. WSS operations were not transparent, unsustainable and ill suited to respond to consumer needs. There was widespread collapse of infrastructure due to under-investment in operations and maintenance. To address the deteriorated situation and the previously fragmented water supply and sanitation (WSS) delivery responsibilities, GOK commenced a comprehensive sector reform in early 2003.

The main sector reform vehicle is the Water Act (2002), aimed at harmonizing the management of water resources and WSS. A central tenet 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. Consistent with this tenet, the GOK (i) is reorganized the Ministry of Water and Irrigation (MoWI) into a body focused on policy issues, (ii) established a Water Services Regulatory Board (WSRB), and (iii) established seven Water Services Boards (WSBs). Each WSB is mandated to appoint Water Services Providers (WSPs), which are legal entities contracted by WSBs to be responsible for service delivery operations.

1.1 Bank Support

Nairobi Water and Sewerage Institutional Restructuring Project (NWSIRP)

The Bank supported the Nairobi Water and Sewerage Institutional Restructuring Project (NWSIRP) that focused on the early phase of reform in Nairobi i.e., institutional restructuring - setting up new autonomous institutions, operationalizing and strengthening them. The project was successfully implemented and has contributed to increase in revenue collection by 60% leading to operational and maintenance (O&M) cost being covered. AWSB and NWSC continue to strengthen their operational, commercial and financial functions. Transparency and governance has improved as a result of a more traceable operating framework, the organization of the sector under legally accountable sector institutions (parastatals and companies), and the implementation of governance training, broad stakeholder representation on institutional oversight mechanisms and individual performance contracts and Codes of Ethics. AWSB, CWSB and LVNWSB have established functional water service providers in line with Water Act 2002 to operate services in the area of their jurisdiction.

Objectives of the Project

The Kenya Water and Sanitation Service Improvement Project (WaSSIP)

Following the successful implementation of the NWSIRP the Government of Kenya engaged the Bank in discussions towards financing infrastructure development for Athi Water Services Board, (AWSB) Coast Water Services Board (CWSB) and Lake Victoria North Water Service Board (LVNWSB) under the Water and Sanitation Service Improvement project (WaSSIP). The project was financed for 150Million USD (AWSB – 65.99Million CWSB 43.33Million and LVNWSB 40.48).

Original project development objectives and description

The project's development objectives are to (a) increase access to reliable, affordable and sustainable water supply and sanitation services; and (b) improve water and wastewater services in the areas served by Athi Water Services Board (AWSB), Coastal Water Services Board (CWSB), and Lake Victoria North Water Services Board (LVNWSB). The project supports a defined part of the overall investment plans of the AWSB, the CWSB, and the LVNWSB. The project also supports the institutional strengthening and capacity building of the three water services boards, the Water

Services Regulatory Board (WSRB) and the Water Appeal Board (WAB). In keeping with the sector reform principle of autonomous sector institutions, the three water services boards are accountable for any support given to them by the project.

The project comprises three components. These are:

- (1) *Support to the AWSB, which will support the rehabilitation and extension of water supply systems, including the development of additional water sources for Nairobi and other drought mitigation measures, and improvements in wastewater collection and treatment facilities in AWSB's area. Technical assistance will also be provided to the AWSB and its water services providers, the WSRB, and the WAB.*
- (2) *Support to the CWSB, which will support the rehabilitation and extension of water supply schemes including drought mitigation measures and institutional strengthening of the CWSB and its various water service providers.*
- (3) *Support to the LVNWSB, which will support the rehabilitation and extension of water supply schemes, including drought mitigation measures and institutional strengthening of the LVNWSB and its various water service providers.*

Rationale for Additional Financing, rather than alternatives

The proposed Additional Financing would finance additional investments to improve access to water and sanitation services, and the drought response measures will make these services more reliable. These investments would permit the scale-up of the project's impact and development effectiveness. The Recipient is fully committed to scaling up the project activities, and processing an additional credit would bring procedural and other cost-effectiveness gains for the Recipient, as compared to preparing a new project. Moreover, the scale-up of activities can be easily accommodated in the context of the ongoing project, as implementation will rely on the Recipient's existing capacity and existing project arrangements. Activities would be completed within three years of the original project closing date of December 31, 2012. Thus, the Additional Financing will require an extension of the current project closing date. The economic justifications of the additional activities remain the same as in the original project. Several changes to the project's key performance indicators are proposed for the original project to reflect the Bank's core indicators. These will be also used to monitor the outcomes of the proposed Additional Financing including the outcomes of the drought response measures. Targets will be adjusted to reflect the impact of the Additional Financing.

From February 14 to March 7, 2011, an International Development Agency (IDA) mission undertook the formal Mid-Term Review (MTR) of the status of the Water and Sanitation Service Improvement Project (WaSSIP). The main objective of the mission was to carry out a review of the project activities supporting Athi Water Services Board (AWSB), the Coast Water Services Board (CWSB), the Lake Victoria North Water Services Board (LVNWSB), the Water Appeals Board (WAB) and the Water Services Regulatory Board (WASREB). In addition, a post procurement review and a review of progress and compliance of the Resettlement Plan Framework and the Indigenous People Plan Framework were conducted.

Rationale for Continued Bank Involvement.

Based on the good implementation progress of WaSSIP of the project and the need for additional investments in all three WSB areas, it was agreed during the Medium Term Review (MTR) that the Bank's team together with the three WSBs prepare the necessary documentation to request additional financing for the project from IDA in the first quarter of Fiscal Year 2012 (July to September 2011).

The proposed WaSSIP AF project is targeted at investments on rehabilitation and expansion of existing water supply schemes, design and development of bulk water supply systems, planning and development of sanitation infrastructure in each of the jurisdictions of the three water service boards (WSBs) - AWSB, CWSB and LVNWSB, and institutional strengthening of the three WSBs, the

associated Water Service Providers (WSPs), and capacity building of Water Services Regulatory Board (WSRB) and the Water Appeal Board (WAB).

The continued satisfactory implementation of WaSSIP places the Bank in a unique position to help strengthen the water sector reform. Further support would consolidate the gains in sector institutional arrangements and help these institutions to improve and expand actual WSS delivery to Kenyans through sustainable infrastructure investments. Service delivery to underserved informal settlement areas, where a majority of the poor resides is critical and will be considered under the Kenya Informal Settlements Investment Project (KISIP) which is supported by the Bank under the Ministry of Housing. The 3 WSBs will submit proposals to KISIP for financing investments for informal settlement works.

In order to minimize disruptions and loss of momentum in project implementation, the gap between the closing of WaSSIP (expected end-December 2012) and the start of a follow-on support activity should be minimized. The proposed project would be the next step in the Bank's phased support and is consistent with the GOK's Economic Recovery Strategy for Wealth and Employment Creation (ERSWEC) that calls for structural reforms, the mobilization of investments, and expansion of services. The project directly addresses the CAS that determined deteriorated infrastructure based services as a constraint to economic growth and the Africa Action Plan that calls for the closing of Africa's infrastructure gap and expanding service coverage. Further the support will go a long way towards the achievement of Kenya Vision 2030 and the MDGs.

Cooperation with development partners would maximize the benefits of common directions and visions and the optimal use of resources. In the first instance, there is an opportunity for parallel financing activities with KFW, AFD and AfDB to support the AWSB, LVNWSB, and CWSB. Confirmation of interest from these agencies has been obtained through previously established cooperation, joint missions and through discussions in the Donor Sector Working Group. Other development partner interests (e.g., the Japanese financing agencies) would be sought.

Proposed project development objective(s)

The proposed WaSSIP AF will complement and build on the gains and achievements already made through the implementation of NWSIRP and WaSSIP. The development objectives of the project are therefore to:

- 1. *Increase access to reliable, affordable and sustainable water supply and sanitation services; and***
- 2. *To improve the water and wastewater services in the areas served by AWSB, LVNWSB and CWSB.***

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 a balanced program including the involvement of communities in decision making and extension of primary and secondary distribution pipes where required, and*
- (iii) Refining and strengthening the institutional structure, emphasizing on increasing accountability and transparency of the institutional and governance and management framework for AWSB, CWSB, LVNWSB, WSRB and WAB.*

Preliminary Project Description

Rehabilitation and Extension of Water Supply Facilities

Support the (i) rehabilitation of existing water supply systems including major transmission pipelines, water treatment works, storage, water distribution networks, boreholes including deep wells; (ii) construction of water treatment networks in selected small towns; development of water storage dams and the Northern Collector Tunnel (for Nairobi supply), (iii) extension of water distribution networks and metering iv) generation of electricity from the gravity water systems and v) feasibility study and preparation of water master plan for LVNWSB. This component is focused on improving and expanding reliable, sustainable and affordable safe water supply to consumers.

Rehabilitation and Extension of Wastewater and Sanitation Facilities

Support the (i) planning and design of sewerage networks and sewage treatment facilities; (ii) extension of existing networks, design for development of energy generation from waste water treatment plants (iii) Preparation of Nairobi Metropolitan Sewer Master Plan. This component is focused on improving treatment and disposal of wastewater. The rehabilitation deteriorated wastewater treatment and construction of facilities would result in overall environmental benefits.

Institutional Strengthening Program

This component is aimed establishing and reorienting the central sector organizations and strengthening capacities in designated areas of their sector leadership, The support includes institutional strengthening of: (i) the asset holding companies – AWSB, LVNWSB and CWSB; (ii) autonomous and ring fenced water and sewerage service provision companies in the three WSB areas, (iii) Strengthening of the Water Services Regulatory Board (WSRB); and (iv) Water Appeals Board (WAB); (v) technical assistance for M & E, engineering, financial, legal, assets valuation, audits, informal settlements WSS program, communications, environmental monitoring, and independent assessments of institutional framework; (vi) programs to increase oversight and transparency of service delivery; and (vii) training and capacity building. This component is focused on strengthening the service delivery framework, governance and transparency, and monitoring and evaluation.

Implementation

The proposed project will be implemented using existing organizational structures and incorporating lessons learnt and experience gained in the implementation of WaSSIP 1 and with other similar projects. The project will be managed by the Project Coordination Team (PCT) established by the three WSBs and within the overall framework of WaSSIP as defined in the Project Agreement. AWSB will provide secretariat for the PCT and the team will come under the oversight of the respective Chief Executive Officers of AWSB, CWSB and LVNWSB.

COMPONENT 1: SUPPORT TO THE ATHI WATER SERVICES BOARD SERVICE AREA

Water Supply and Distribution and Wastewater Collection and Treatment

- a) Construction of Northern Collector Phase 1 (river abstraction/intake structures and 12 km tunnel): This sub-component is part of the recommendations from the on-going feasibility study and master plan for the development of new water sources for Nairobi and satellite being undertaken by AWSB. The Northern Collector Phase 1 is part of scenario 2, which is the most preferred of the 6 scenarios reviewed under this consultancy. Proposed works will include construction of the NC tunnels (12km), diverting the 3 rivers of Irati, Gikigie and Maragua for a flow of 1.5 m³/s as previously designed in 1998; improvement of Mwagu intake structure and screening equipment and construction of Mataara –Ngethu raw water main.

The following is an indicative list of subprojects that the project may finance in addition to the Northern Collector Tunnel:

- b) Construction of Raw Water and Treated water (Thika-Ngorongo TW-Kabete) water transfer Phase 1:
- c) Construction of Ngorongo High Level Water Treatment Plant phase 1:
- d) Development of Two Deep Exploratory Wells Scenario 2 of the on-going Nairobi water masterplan indicates potential for two well-fields: Kiunyu in Thika (0.4m³/s, 2014) and Ruiru (0.35m³/s, 2015). The proposed works will undertake the necessary exploratory works for the two well-fields. In addition, this will include Consultancy services for review of designs and supervision of the development of deep exploratory wells.
- e) Development of Energy Generation Innovations at Dandora Wastewater Treatment Plant: Dandora Waste Stabilization Ponds have been identified to have a potential to generate 5.7MW of electricity from methane gas. This requires covering of the ponds with special plastic material, installing gas collection and conveyance system and mixers in the facultative and maturation ponds and power generators.
- f) Construction of Independent Community Water Supply around Thika Dam: At Gatanga WSP, development of intake and water treatment plant (3,000m³/day) on Kiama River and development of intake and water treatment plant at Gatura market have been proposed. The estimated demand in the WSP is currently 9,417 m³/day. The proposed production is nearly equal to the current water demand. The service level attained is 79.6 l/c/d. The works in the WSP are recommended on two folds, mainly the need to provide treatment to the water on account of increased biological pollution in the water and because the community is resident downstream of the intakes feeding the Thika-Chania tunnels to Mwagu and Ngethu WTW.
- g) Improvement of Water and Sanitation in the informal settlements in Nairobi: Design and Tender Documents for Improvements in the informal settlements exist under the following projects: Improvements in the informal settlements project under WaSSIP phase 1, and improvements in the informal settlements of Kibera under the Urban Slums Upgrading Project. The engineering services required include the review the extent of works and repackage tender documents to match allocated budget; land acquisition/property compensation for site of construction of mains and the reservoir; procurement of contractor and construction works. The informal settlements under consideration are: River Bank, Kayole Soweto, Maili Saba, Matopeni/Spring Valley, Hurumu, Mathare, Kahawa Soweto, Kibera, Korogocho, Githurai and Mukuru.
- h) Implementation of Drought Mitigation Measures
- Supply of 270No. collapsible water tanks (capacity 10m³ and 5m³) including a hosepipe & pumpset
 - Supply of 780No. 10m³ plastic water tanks to public schools and institutions for rainwater harvesting including gutters, downpipes, fittings and concrete base
 - Supply of 15No. utility mini-lorries for carrying pipes, collapsible tanks etc
 - 79No. mobile water treatment units for both silty river water & saline water from B/Holes (to be pulled by a pickup)
 - Equipping and commissioning of 51No. existing boreholes with submersible pumpsets, generator sets, Solar Panels and Fittings
 - Development of 51 No. borehole water sources and equipping with submersible pumpsets, solar panels & Generator sets
 - Construction of 97No. elevated steel tanks at borehole locations
 - Supply of 10No. 4WD Drought Monitoring Vehicles-Hardtops for TWSB
 - Implementation of Drought Mitigation Measures
- i) Institutional Strengthening Programme.

- Institutional Support to AWSB. AWSB will receive support to interlink the Board with the WSPs under its jurisdiction with internet office facilities for effective communication. AWSB will also receive technical assistance for provision of legal assistance for establishing and registering water and sewerage infrastructure wayleaves and implementation of RAP, as well as training and capacity building.
- Institutional Support to WASREB. Activities proposed include the following activities: procurement of ICT equipment and infrastructure; technical assistance for implementation of compliance and enforcement strategy for WSB's and WSP's, TA for human resources consultancy services including employee satisfaction, work, environment and baseline survey on corruption eradication, and TA for development of guidelines on minimum requirements for disaster preparedness of WSB's and WSP's; and capacity building in regulations (training, study tours, networking and benchmarking).
- Institutional Support to WAB: This will include the procurement of ICT equipment and infrastructure, procurement of works for the refurbishment of WAB Regional offices, procurement of technical assistance for enhancement of claims and dispute resolution, alignment to the new constitution, public communication and capacity building in regulations (training, study tours, networking and benchmarking)
- Institutional support to NCWSC and other WSPs, including the supply and installation of water and wastewater management equipment, supply and installation of office and ICT equipment, purchase of motorcycles, technical assistance and training and capacity building.

COMPONENT 2: SUPPORT TO THE COAST WATER SERVICES BOARD SERVICE AREA

Component 2 will provide support to the CWSB, which will assist in the rehabilitation and extension of water supply schemes, including drought mitigation measures, and institutional strengthening of the CWSB and its various water service providers.

Rehabilitation and expansion of water transmission and distribution pipes and improvement of water supply systems in WSPs

The following is an indicative list of subprojects that may be financed by the project:

- a) Augmentation of Baricho Water Production Works: The proposed works will increase production from the Baricho system (8No. boreholes drilled on the southern bank of Sabaki River) from the installed capacity of 90,240 m³/day to 148,000 m³/day, i.e., an increase of 52,000 m³/day. The additional water will be directed to the Mombasa North Coast (32,358 m³/day) as well as for the Sabaki-Gogoni water supply project (7,670 m³/day at year 2024) and to Kilifi (12,000 m³/day). Major works will include drilling and equipping additional wells on the southern banks of Sabaki River to yield additional 52,000m³/day, partial upgrading of the power supply and motor control systems at the borehole wellfields and at the highlift station and partial supply and installation of additional pumps at the highlift stations for Mombasa and Malindi.
- b) Construction of DN500 Sabaki-Jaribuni Pipeline: The Baricho/Sabaki-Mombasa system, designed to deliver approximately 53,256 m³/day of water through pumping upto Jaribuni highpoint, is currently delivering an average of only 45,000 m³/day due to constrained capacity in the transmission main. The proposed works is divided into two: The first investment proposal will involve improvement/modification works by elimination of the pipeline constrictions as well as the unnecessary control valves, bends and Y-sections to

reduce friction headlosses, ensuring that additional capacity of 7,975 m³/day is transmitted in the Mombasa line. The second investment will include construction of a parallel main of DN500, from Sabaki to Nguu Tatu a distance of 104 km to transmit 32,358 m³/day of water from increased production at the Baricho system.

- c) Construction of DN300 Malindi (Kakuyuni)-Kilifi Pipeline Interconnection: The Baricho-Kakuyuni pipeline is designed for 23,155 m³/day. Addition of the Sabaki-Gogoni (7,670 m³/day) and Kilifi flow (12,000 m³/day) onto this line will result in immediate required capacity of 35,670 m³/day. The proposed works is twinning of the Baricho-Kakuyuni pipeline, to carry the flow of 54,642 m³/day after production improvements at Baricho.
- d) Swabbing of the Sabaki-Mombasa and Sabaki-Malindi Transmission Mains: This sub-component proposes to swab the Sabaki-Mombasa and Sabaki-Malindi pipelines in order to recover lost capacity due to siltation of mains, which is approximated at 5-10% (about 6,750 average m³/day). The Mombasa pipeline, which is ductile iron, is 104 km upto Nguu Tatu. The Malindi pipeline, DN600 steel, was constructed in 1987 and is 29.1 km upto Kakuyuni Reservoir. From review of water quality from sources, iron and manganese compounds and silt are suspected to have developed crusts and reduced pipe bore as typical of coastal waters.
- e) Bulk Water Pipeline Maintenance System: Coast Water Services Board runs a bulk water service from 4 main water sources that supply water into Coast Region. CWSB has registered a limited liability bulk water company, which now requires operationalization. The proposed works will improve efficiency in the pumping equipment and electrical installations at the Baricho wellfields and highlift station and Lower Ribe pump station as well as at the Tiwi boreholes. In addition a monitoring system will be procured to assist in the management of the Bulk Water System.
- f) Construction of Sabaki-Gogoni Water Supply System in Malindi: The project involves development of a water supply to meet immediate term water demands upto the year 2014. The proposed project covers the following infrastructure: improvements at Baricho source works; off-take at Kisimani downstream from Kakuyuni reservoir; construction of Kisimani-Kapupuni transmission main 2500 m³ reservoir at Kapupuni and booster station; gravity main from Kapupuni to Gogoni; off-takes to Mambrui and Angel Bay, Gogoni, Ngomeni and Marikebuni; and construction of a mainline to Marereni and booster station facilities. This project is to be co-financed by the IFC and the WaSSIP AF on a 50% basis.
- g) Financing of Provisional Items in Kilifi, Tavevo, Lamu and Tana River: CWSB has recently completed the procurement and award of works contracts for the 6WSP's Water and Sanitation under WaSSIP. However, some items that were tendered for as provisional items have finally not made it to the final contract sums due to limitations financial limitations.
- h) Construction of Offices for CWSB, TAVEVO AND LAWASCO

Institutional Support Measures:

This will include support to CWSB, MOWASCO and to the other 6 WSPs in terms of: Goods including bulk water equipment to CWSB, office equipment, ordinary customer meters, motor cycles, sewer and leak detection equipment and handtools; technical assistance to CWSB for legal services for establishment of wayleaves and implementation of RAP and TA to 6 WSP's for reduction of NRW; and training and capacity building.

Implementation of Drought Mitigation Measures

- Supply of 330No. collapsible water tanks (capacity 10m³ and 5m³) including a hosepipe & pumpset

- Supply of 252No. 10m³ plastic water tanks to public schools and institutions for rainwater harvesting including gutters, downpipes, fittings and concrete base
- Supply of 39No. utility mini-lorries for carrying pipes, collapsible tanks etc
- 15No. mobile water treatment units for both silty river water & saline water from B/Holes(to be pulled by a pickup)
- Equipping and commissioning of 45No. existing boreholes with submersible pumpsets, Generator sets, Solar Panels and Fittings
- Development of 15No. borehole water sources and equipping with submersible pumpsets, solar panels & Generator sets
- Construction of 60No. elevated steel tanks at borehole locations
- Supply of 3No. 4WD Drought Monitoring Vehicles-Hardtops
- Construction of 16No. surface Water tanks (Pressed Steel Tanks), 1000 m³ capacity
- Supply of 2No. water tracking boats (with engine power) for Lamu & Wasini Islands
- Construction of 6No. underground Rain Water Harvesting Tanks (Djabias), 150m³ with cemented collection apron for CWSB
- Drought Mitigation Study (Plan) for WSB region
- Construction of 6No. Small Earth Dams (Pans)
- Ground Water Study for the Wajir Aquifer in NWSB
- Extension/Construction of Water Supply Pipelines

COMPONENT 3: SUPPORT TO THE LAKE VICTORIA NORTH WATER SERVICES BOARD (LVNWSB) SERVICE AREA

This component is aimed at providing resources to Lake Victoria North Water Services Board (LVNWSB) for the following sub components:

Rehabilitation and Extension of Water Supply Facilities

This sub component will support (i) the rehabilitation of existing water supply systems including water sources intakes, surface and groundwater borehole sources, transmission pipelines (gravity or pumped), water treatment works, storage tanks, water distribution networks (ii) construction of extension of water supply source works water treatment works etc in selected small towns, and (iii) construction of extension of water distribution networks and installation of metering. This sub component will focus on improving and expanding water supply to make them be reliable, sustainable, affordable and safe to consumers. The following is an indicative list of subprojects:

- a) Rehabilitation of Water Supply Systems: This will include six independent rural water supply schemes of Sio Port, Port Victoria, Musanda, Navakholo, Kwanza, and 1 rural cluster. The works will comprise of (i) cleaning (flushing) and equipping of boreholes, (ii) water treatment chemical dosing units (where required), (iii) rehabilitation of pipeline fittings (section valves, air valves, wash outs, etc), (iv) replacements of pipeline sections that are prone to bursts and supply failures, (v) repair of leaking storage tanks.
- b) Expansion of Water supply Systems: The expansion works will consist of expansion of intake structures to cater for increased demand or development of new intakes and drilling of new boreholes; new treatment works or expansion of existing treatment works; new pumping units for raw water and treated water; new Storage tanks; new backwash systems; additional rising mains and reticulation systems; metering of schemes; additional balancing tanks; additional dosing facilities; water testing laboratories. The targeted project areas include Butere and Malaba/Malakisi towns, six independent rural schemes, one rural cluster, Eldoret water supply expansion (Ellegirini pipeline and Treatment works at existing Kipkaren Dam) and extension of services to informal settlements.

- c) Extension of water distribution networks and metering: This will include construction of additional distribution lines (Lumakanda/Kipkaren, Lesso, Kimilili, Kapcherop/Kasowar) and the installation of meters and GSM pressure meters in WSPs.
- d) Office rehabilitation (LVNWSB/WARMA and Kapsabet/Amati WSPs).
- e) Institutional Strengthening Program: This component aims at establishing and reorienting the water sector organizations and strengthening their capacities in designated areas of their sector leadership. The support includes operationalization and strengthening of: (i) the asset holder –LVNWSB; and (ii) the autonomous and ring fenced water and sewerage service provision companies of Western, NZOWASCO, Amatsi, Kapsabet-Nandi and ELDOWAS. This will include:
 - Support for operationalization and strengthening of LVNWSB. This will include rehabilitation of office premises, workshop and provision of office equipment; technical assistance for communication, customer/employee satisfaction surveys and independent assessments of institutional framework, and hiring of individual consultants for specific assignments; and training and capacity building.
 - Support for operationalization and strengthening of autonomous and ring-fenced WSPs. This will include office rehabilitation/upgrading and supply of office equipment; training and capacity building; supply and installation of operation and maintenance tools and equipments; and technical assistance to develop incentive based performance system for WSPs, integration of customer management system to GIS and updating of GIS maps and network model and hiring of individual consultants for specific assignments.

Implementation of Drought Mitigation Measures

- Supply of 634No. collapsible water tanks (capacity 10m³ and 5m³) including a Hosepipe & Pumpset
- Supply of 384No. 10m³ plastic water tanks to public schools and institutions for rainwater harvesting including gutters, downpipes, fittings and concrete base
- Supply of 43No. utility mini-lorries for carrying pipes, collapsible tanks etc
- 23No. mobile water treatment units for both silty river water & saline water from B/Holes(to be pulled by a pickup)
- Equipping and commissioning of 33No. existing boreholes with submersible pumpsets, Generator sets, Solar Panels and Fittings
- Development of 37No. borehole water sources and equipping with submersible pumpsets, solar panels &Generator sets
- Construction of 45No. elevated steel tanks at borehole locations
- Supply of 30No. 4WD Drought Monitoring Vehicles-Hardtops

METHODOLOGY AND CONSULTATION

The study was conducted by the consultant using the following approach and methodology;

Detailed and in-depth literature review

Review on the existing baseline information and literature material was undertaken and helped in gaining a further and deeper understanding of the project. Among the documents that were reviewed in order to familiarize and deeply understand the project included:

- *The Project Appraisal Document for WaSSIP AF*
- *Project Concept Note for WaSSIP AF*
- *WaSSIP IPPF*
- *World Bank Involuntary Resettlement Operational Policy 4.12.*
- *Environmental Management and Coordination Act (1999)*
- *World Bank Project Concept Note and Integrated Data Sheet*
- *Technical Mission Aide Memoire*
- *Project Appraisal Document*
- *World Bank Group Environmental, Health, and Safety Guidelines (known as the "EHS Guidelines").* <<http://www.ifc.org/ifcext/sustainability.nsf/Content/EHSGuidelines>>

The consultant also undertook detailed review and analysis of the national relevant legislations, policies and guidelines including the World Bank Safeguards Policies, international conventions related to this project and other relevant documents. The consultant has identified one group of Indigenous People who trigger the World Bank OP 4.10, the Sengwer.

Field Visits

Field visit to the locations where the indigenous Sengwer communities reside and where the LVNWSB sub project will be implemented is yet to be undertaken. In the final submission of the IPPF, a section on the stakeholder consultation and field visit will be included. At the time of preparation of this draft report, this had not yet been conducted.

Interactive Discussions

Preliminary discussions have been held with the AWSB and CWSB project staff, project contractor as well as the World Bank relevant staff. Plans are underway to conduct a more robust stakeholder/public consultation based on this draft IPPF with the other relevant staff of the LVNWSB and the views from the stakeholders including public will be incorporated in the final IPPF report.

These discussions will be very insightful in understanding the issues and are the basis for most of the measures contained in this IPPF.

Preparation of IPPF

This involved

- Collation of baseline data on the Sengwer including lifestyle, livelihood, history;
- Identification of positive and negative impacts of the proposed sub projects under LVNWSB to the Sengwer;
- Formulation of monitoring plans.

Social Assessment of the Indigenous Peoples in WaSSIP AF Operational Areas

History

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

Oral history traces the history of the Sengwer back to a man called Sengwer, who is considered to be the mythical first inhabitant of the Cherangany hills. It is said that he had two sons named Sirikwa (elder) and Mitia, whose children formed the clans: Kapchepororwo, Kapchepar (Kaptoyoi), Kapumpo, Kaptogom, Kapcherop, Kakisango, Kimarich (Kamosus), Kapsorme (Kapseto), Kapteteke, Kipsirat, Kamengetiony (Kopoch & Kapkotet), Kaplema and Kamesieu. Each patrilineage is said to have had their portion of land running from the highlands to the plains. The elders said that before the advent of the colonialists, the Sengwer lived during the rainy season in the vast plains of what is today Trans-Nzoia and during the dry season in the forest on the mountain slopes of the Cherangany hills. It is said that the Sengwer lived in good relation with their neighbors as they were not competing for the same resources, but barter honey and dry meat for food crops and/or milk etc.

It is believed that the first Arab slave and ivory hunters came to the area around 1600 and oral history claims that the Sengwer have been quite involved into the trade. In exchange for the ivory they were provided with Millet and Sorghum seedlings. During the Maasai immigration they acquired their first cattle, but it is a common belief that hunting and gathering remained the main source of livelihood for all Sengwer until the mid of the last century.

As so many other ethnic minorities, the Sengwer were considered by the British to be served best if they were forced to assimilate with their dominant neighbors. Due to that their traditional structure was not recognized and integrated as independent ethnic group in the system of indirect rule, but as sub-structure of their neighbors. As their land in the plains of Trans Nzoia turned out to be the best area for agricultural production in Kenya, they were displaced entirely from there to make way for British farmers. A minority stayed behind as farm workers, but the majority went up into the forests of the Cherangany hills. When the government started to protect the water-catchments and forests in the 1920ies and 30ies as forest reserves, they acknowledged the presence of the Sengwer and provided them with all usufructuary rights for this area as well as the right to farm on the openings in the forest. They enjoyed these rights until the 1970ies, when a new fashion of conservation recommended that all hunting should be prohibited and forests should be cleansed of people.

As the Sengwer were not considered as independent group, they were also not invited to join the settlement schemes in which the independent Kenya redistributed the white farms to the farm workers and the dominant ethnic groups of the area. While most Sengwer are officially landless, some few Sengwer especially in the northern parts of the Cherangany hills received some land, but even this land is contested.

Livelihood

Before the colonial time, Sengwer used to be hunters and honey-gatherers. Following their contacts with the Arabs and the Maasai some adopted small scale agriculture (shifting cultivation) and/or

livestock rearing, but it is said that hunting remained their main source of livelihood until the 1920s. The elders reported collective as well as individual hunting techniques. During the Sakas (collective hunt) a group of people would try to circle large animals such as elephants and buffalos on the plains and spear or arrow them down. In contrast, the Kwo (individual hunt) is carried out by a nuclear family and mostly based on the use of poisoned baits and/or traps.

Gathering of fruits and other non-timber-forest-products is mostly done by women, while honey collection from beehives as well as from natural places such as holes in trees etc. is traditionally a male activity. It has - beside being eaten - a variety of uses:

Honey is mixed with water as a daily drink (breakfast), and used to brew beer. Honey plays a major role in marriages and other ceremonies. Before marriage, honey is given to the mother of the bride as part of the dowry. The night before the marriage, wife and husband had to smear honey on their future house, each starting in a different direction until they meet and unite.

Honey has also medical use. People apply it to their body to drive away mosquitoes and against muscle pains. Another smelly mixture is spread around the compounds to keep wildlife at distance.

Millet and Sorghum are the “traditional” crops, which were inherited from the Arab traders and mostly planted in the lowlands. These days, maize, potatoes, beans and a variety of vegetable are grown. Before land became scarce, the Sengwer used shifting cultivation patterns and changed their farms every three years. Transplanting, harvesting transforming, marketing and preparing of crops is considered beside of gathering, the provision of water and the education of the children as core female activities.

The Sengwer learned to keep animals, especially cattle, from the Maasai, when these arrived in the area in the context of their expansion from the north. The herds of the Sengwer are - also due to the common cattle rustling - very small and milk and livestock mostly used for auto-consumption. Most of the ancestral land of the Sengwer is occupied either by other ethnic groups or demarcated as forests, which prohibit legal settlements or agriculture. It is said that around 20% of the Sengwer have legal access to land, but that these plots are on average only 2.5 acres per household, i.e. very small. The majority of the community members are landless. Significant parts of the ancestral lands have been demarcated as forests: Kapkanyar 70,000 acres; Kipteber 57,000 acres; Kapolet 10,800 acres; Chemurgoi 9,800 acres; Sogotio 8,800 acres; Kerer 5,340 acres; Kaisingor 2,680 acres and Embobut 8,000 acres. The problem of the Sengwer to access land and/or resources legally might best be described best through an assessment of the three communities visited:

The Embobut forest in the Marakwet district contains, according to local sources, approximately 5,000 Sengwer, which claim to have arrived in the area in the 1930s when they were displaced from the plains of Trans-Nzoia. The settlements are located right on top of the highest lines of the Cherangany hills, with a view into the Rift Valley and the plains of Trans-Nzoia on either side, but without roads, schools, health infrastructure as it is officially considered as forest. The people who took refuge there, report of ongoing conflicts with forest officials and neighboring communities. They commonly stated that the forest guards would arrive every three to four years to burn and destroy their houses and farms in the name of forest conservation and to loot their property. In the meantime armed cattle rustlers would come time and again to take crops and cattle and shoot those who resisted. The Sengwer of the Embobut forest made clear that the local and central administration did not react on any complaints against the evictions, with the argument that the Sengwer are illegally in the area and due to that not entitled to any protection from the state and county council. Their average annual cash income is said to be around KSh 3,000 (USD 40) per household as significant parts of their production are taken away before they can market it.

The situation of the Sengwer of the Kapolet forest is not much better. Presently there are 487 Sengwer households living in this half-legal settlement, which had been given to them after they invaded a state

lodge. The history of these people is closely linked to the quest of the Sengwer for land and recognition: In result of years of broken promises from side of the government approximately 2,000 Sengwer invaded on March, 22, 1997 a state owned farm in the plains (ADC Milimani) and stayed there even when their elders and leaders were arrested. After a month of serious conflict, the government offered them a new settlement scheme in the Kapolet forest (in total over 3,000 acres) in exchange for a peaceful end of the invasion. The Sengwer accepted, and in a first phase 1,000 acres were demarcated for nearly 500 households, who moved in the same month, but the promised letters of allotment were not even issued by December 2005 with the official reason that the land is officially a forest and due to that not suitable for a settlement scheme. Due to the same reason, the second and third phase of the settlement scheme, which supposed to provide the entire 3,000 acres to Sengwer, have not yet started. The community members stated that they have witnessed significant encroachments from non- Sengwer on the entire Kapolet forest, especially logging activities and the establishment of new farms on the land of phase 2 & 3.

In view of legal access to land, the Sengwer of the Talau Location are fortunate. All 755 households have letters of allotment and they are satisfied with the quality and size of their lands, but they also have significant problems: Only in 2005 about 20 Sengwer of this small location with a total population of around 4,000 people have been killed by cattle rustlers. The total loss of cattle is reported to be around 400 and the non-economic losses might be even higher as most families have to be on alert each night. The Sengwer complained bitterly that even those cattle which have been identified to be theirs, were not returned and that no support was coming from the government. In contrast, some rifles, which had been organized by the only Sengwer councilor to protect the lives and property of the Sengwer, have been confiscated by the police, leaving the Sengwer unarmed to stand well equipped intruders. From that perspective it is not surprising that most Sengwer feel marginalized by the government.

Social organization

Patrilineages led by the elders are the traditional form of self-organization. In contrast to other hunter-gatherer societies, the influence of the elders seems to be quite strong among the Sengwer and have also survived the advent of modern forms of self-organization. In their struggle for land and recognition the Sengwer-elites have created a good number of Community Based Organizations and NGOs among others the Sengwer Indigenous Development Project and the Hunter-Gatherer Forum of Kenya, Sengwer land allocation committee). These groups will be consulted during the stakeholder consultation period.

Those Sengwer who have managed to obtain legal access to land also received some form of representation at local and regional level. The Sengwer of the Talau location have a Sengwer sub-chief and also an elected councilor (who presently serves as assistant mayor) in the county council since 1971, while those Sengwer who remain in illegal (Embobut forest) or partly legal settlements (Kapolet forest), are not represented by one of their people, but by members of other ethnic groups in the area.

Ancestral Territories, Lands and Natural Resources

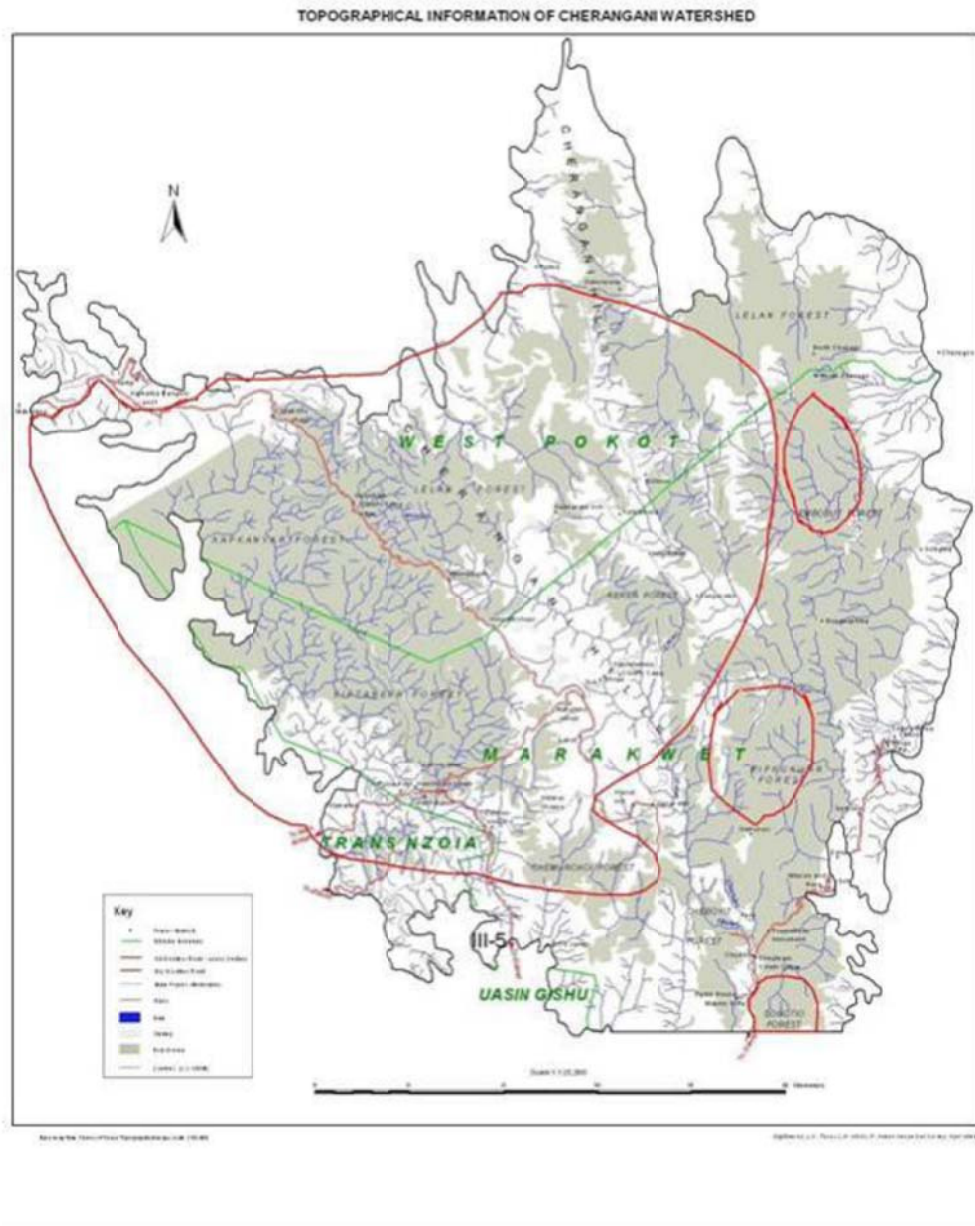
The Sengwer tribal boundary covers the whole of what is today's Cherengany constituency, parts of Sabaot and Kwanza constituencies in Trans-Nzoia district, parts of Lugari district, parts of West and East Marakwet constituencies in Marakwet district, and parts of Kapenguria and Sogor constituencies in 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 extends 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



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

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

1. Kapkanyar 70,000 acres
2. Kipteber 57,000 acres
3. Kapolet 10,800 acres
4. Chemurgoi 9,800 acres
5. Sogotio 8,800 acres
6. Kerer 5,340 acres
7. Kaisingor 2,680 acres
8. Empoput 8,000 acres
- 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.

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.

Land tenure among the Sengwer (past and present)

Discussions with the community revealed that only about 70 per cent of them have partial ownership of land, having been issued with allotment letters by the government. The area around Kapolet forest is still gazetted as forest land not available for settlement. Those in Emboput forest are literally squatters with no papers which exposes them to regular evictions. Sengwer resettlement along the Kapolet and the Emboput forests face more problems associated with land ownership. The Sengwer in Talau location in Kapenguria (West Pokot district) are relatively better off, in that they have ownership documents and have relatively made more investment on their land (KARI 2005).

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 Peoples hold positions in government, even at junior levels (such as chiefs and sub-chiefs).
- Indigenous Peoples:
 - 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;
 - Have little representation even as local government councilors, let alone at higher political levels, and are thus administered and represented by members of non-governmental groups (NGOs)

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

The LVNWSB which is implementing WaSSIP AF in Western Kenya and where certain subprojects may have potential activities may impact the water supply and catchment of communities with indigenous Sengwer 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 deep attachment and feelings of ownership of the water resources in the Cherengany Hills catchment areas by Sengwer communities.

Potential Positive impacts as expressed by Sengwer during the preparation of the IPPF for WaSSIP include the following (and may remain the same under WaSSIP AF even though confirmation will be made during the consultation of this indigenous group);

- Water availability and access 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
- Reduced workloads 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
- 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

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
- Destruction of the water works by available wildlife
- Possible destruction of water sources

Specific Key Impacts Identified by the Sengwer during consultations

Several key concerns were revealed during the consultations with the Sengwer at the time of developing the IPPF for WaSSIP 1, some of which have been raised again during the preparation of the IPPF for WaSSIP AF. However during the consultation with the Sengwer in the development of this IPPF, the issues raised and concerns presented by the Sengwer at the time of developing the IPPF for WaSSIP 1 will be taken into account and a determination will be made to find out if these issues were addressed.

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 2007.

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.

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

Table 1. Potential Project Impacts

| <i>Impact</i> | <i>Possible Actions</i> | <i>Responsibilities and Issues</i> |
|---|---|--|
| Concentration of people and livestock around water points | Ensure adequate distribution of water points for both people and livestock | Local authorities; LVNWSB 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 | 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 | LVNWSB • LVNWSB will implement any agreements reached under the WaSSIP framework. WaSSIP AF 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 |

| | | |
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| | honored | development partner or the GOK would be expected to provide the necessary resources. |
| Encroachment on and degradation of Sengwer land, territory and natural resources | <p>Providing for meaningful representation of the Sengwer in decision making in WSS development - investment planning and operations and maintenance of service provision – providing for the Sengwer the voice to shape the benefits they would like to see from the project.</p> <ul style="list-style-type: none"> • Implement IPP to re-assert Sengwer rights to land and other natural resources affected by the project. • Ensure adherence to the project Resettlement Policy Framework. • Control in-migration of people from outside the area. • They be recognized as a distinct ethnic group and accorded an identity code and given a district to appoint their own chiefs and elect their own Member of Parliament, 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 and energy spent in searching for water. | <p>LVNWSB</p> <ul style="list-style-type: none"> • Strict control of migration may not be possible within the context of Kenya where there is no restriction to free movement of citizens. • The general issues of district creation and the lack of collective titles to land are 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. |
| Participation of women in decision-making processes) | <p>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</p> <ul style="list-style-type: none"> • Increase hygiene and public health campaigns to sensitize the community • Increase funding to community water supply bodies to ensure that water is treated while at the same time ensuring that water supply facilities are rehabilitated and kept in good condition. | <p>LVNSWB</p> <p>Capacity of women to be enhanced through exposure and leadership training so that at least one third of them can get involved in the management water service and management institutions including attending meetings convened by such institutions.</p> |
| Increased incidences of water-borne diseases | | 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 | <p>Adequate communication framework to ensure Sengwer voice is heard, pending issues resolved and grievances heard</p> <p>The Sengwer should be meaningfully represented on the Water Service Providers in their areas</p> <p>Strike a balance between water supply in rural and urban areas</p> | The Sengwer LVNWSB |

FRAMEWORK FOR ENSURING FREE, PRIOR, AND INFORMED CONSULTATION

The OP 4.10 states 3 areas of concern for the IP (see Annex 3, Paragraphs 16-21):

- Lands and Related Natural Resources
- Commercial Development of Natural and Cultural Resources
- Physical Relocation of Indigenous Peoples

It is highly unlikely that the proposed activities will result in any significant adverse impacts for Indigenous Peoples. Some adverse impacts may arise from potential restriction of access by IP to natural resources e.g. forests. Key steps to constitute free, prior, informed consent will include the following:

Indigenous Peoples Orientation and Mobilization

Given that the IP were consulted in December 2007 during the preparation of the original IPPF for WaSSIP 1 it will be necessary to bring them and staff in project areas up to speed with WaSSIP AF project objectives, activities and desired outcomes in order to gain broad support by them for the project. In addition, orientation meetings under WaSSIP AF organized by LVNWSB would seek to complement consultation undertaken during WaSSIP 1 project preparation, to more accurately identify and map the perceptions of the IP and other stakeholders regarding the LVNWSB sub projects, and how they may have any positive or adverse impacts on the IP. This stage will identify key representatives of the IP for participation in subsequent consultations and decision making organs.

Mapping of community resources critical to IP

Mapping of community resources in areas where the IP live and their utilization will be necessary to identify their access to and/or control of these. The IP representatives will play a key role in mapping. These will include the following:

- Land and natural resources and Social infrastructure and technical services. It will draw upon the PRA exercise and constitute an input into the planning of activities that impact on the Indigenous Peoples and will establish the baseline for subsequent monitoring. It will provide information on a) scale of natural resource utilization, b) condition of lands and potential threats for IP, c) existing unsustainable commercial development of natural and cultural resources critical to IP d) customary rights and overlapping or conflicts in resource use from within and outside IP areas, e) condition of infrastructure. Regarding customary rights of IP to use of common resources, the mapping will build upon the consultations held with the IP in 2007 and would provide information on (i) location and size of the area and condition of resource, (ii) primary users, including those that belong to IP that currently use or depend on these common resources, (iii) secondary users and the types of uses they make, (iv) the effects of these uses on the IP, and (v) mitigation measures of adverse impacts if any.

Development of strategies for participation

Meetings will be held with the different groups of IP to review results of the resource mapping and agree on its implications regarding WaSSIP AF activities, resource access restrictions, mitigation/compensatory measures and IP participation arrangements for project activities. Activities selected should ensure that the IP do not:

- Face further physical and economic displacements from land and forests traditionally utilized by them as source of livelihood and basis for their cultural and social system,
- lose further legal access to natural resources, which are an important source of livelihood and basis for their cultural and social system,

- Continue to be affected by land grabbers and cattle rustlers,
- Become even more marginalized in the society and disintegrate from the nation, receive less assistance from governmental services,
- Have less capacities to defend their legal rights,
- Become or remain as dependent of other ethnic groups, and
- Lose their cultural and social identity.

All WaSSIP AF activities under the LVNWSB will be subjected to social screening before implementation since the exact sub-projects and activities will be identified at a later stage,. The project does not intend to undertake any activity that will involve involuntary resettlement of the IP or any other groups of people for that matter. Any activity that will require physical relocation of Indigenous Peoples or acquisition of private or community land currently used by the IP should be excluded.

The social assessment will also identify if the proposed project activity will involve change in use or management of commonly held properties in the community as well as involving the commercial development of natural and cultural resources on lands or territories that Indigenous Peoples traditionally owned, or customarily used or occupied. The social assessment will ensure free, prior and informed consultation with the IP during project planning and implementation. It will ensure that mitigation of potential adverse impacts, deriving from project activities, will be based on a participatory and consultative process acceptable to the World Bank and the IP themselves. Annual project work plans will include the social screening. The social screening may follow the format shown on Table 2 below:

In addition to the social screening, project activities should comply with the following:

- Conserve and sustainably use land and other natural resources that impact on IP and other communities
- Provide equitable share of benefits to IP and mitigate any possible adverse impacts
- Be socially and culturally acceptable to the IP and economically feasible so that the IP are not further discriminated/marginalized
- Be institutionally feasible: Local institutionally capacity should be adequate to take up activities
- Be environmentally sustainable and avoid detrimental impacts from those activities that cannot be mitigated
- Be elected and owned by the IP and other communities through participatory consultation
- Be supported by training and capacity building to enhance IP and community development

The LVNWSB social specialists or consultants will be responsible for such screening together with the implementing institutions; however, decisions will be made by mutual consent of the Indigenous Peoples and with the endorsement of the WaSSIP AF Project Coordination Team (PCT).

Table 2. Social Screening Form

| SOCIAL SCREENING FOR WaSSIP AF ACTIVITIES | |
|--|--|
| A. BACKGROUND INFORMATION | |
| A 1. Type/description/justification of proposed activity | |
| A 2. Location of activity | |
| A3. Duration of activity | |
| A 4. Focal point and person for activity | |
| B. EXPECTED BENEFITS | |
| B1. Benefits for local people | |
| B2. Benefits to Indigenous Peoples (IP) | |

| | |
|---|---|
| B3. Total Number of expected beneficiaries | |
| B4. Total Number of expected Indigenous Peoples beneficiaries | |
| B5. Ratio of B4 and B5; Are benefits distributed equitably? | YES NO If NO state remedial measures |
| C. POTENTIAL ADVERSE SOCIAL IMPACTS | |
| C1. Will activity entail restriction of access of IP to lands and related natural resources | YES NO If yes exclude from project |
| C2. Will activity entail commercial development of natural and cultural resources critical to IP | YES NO If yes exclude from project |
| C3. Will activity entail physical relocation of Indigenous Peoples YES NO If yes exclude from project | YES NO If yes exclude from project |
| D. CONSULTATION WITH IP | |
| D1. Has IP orientation to project been done for this group? | YES NO |
| D2. Has PRA/RRA been done in this area? | YES NO |
| D3. Did the indigenous peoples give broad support for project | YES NO |
| | |

Prepared by: _____ Verified by: _____

LVNWSB Coordinator IP representative

Date: _____ Date: _____

Note: Attach sketch maps, PRA/RRA results and other relevant documents.

Capacity Building

During the IP orientation and mobilization process, the interest, capacity and skills of the IP and their institutions, CBOs and NGOs for natural resource management, including social screening, will be assessed. The project will provide training for them in resource mapping, natural resource management evaluation, planning, record keeping, basic account keeping and monitoring and evaluation.

In addition, for social impact management, training will be needed for WaSSIP AF and implementing agencies key staff on the implementation of the IPPF with special attention to developing their knowledge on IPPF background, history and areas of concern as well as their skills for community orientation, free, prior and informed consultative planning, PRA tools and techniques

Establish equitable representation of IP in decision making organs within WaSSIP AF

WaSSIP AF will ensure that IP are well represented in the national and district steering committees to articulate issues important to them. They will help make decisions on their needs and priorities with facilitation and guidance from WaSSIP AF and the implementing organizations. In so doing, IP representatives will take the following into account:

- Conservation of natural resources by adopting specific, tangible actions that demonstrate sustainable use and management, linked with improving their livelihoods while upholding their rights, culture and dignity.
- Social sustainability ensuring that their livelihoods and way of life are not adversely impacted but rather improved and that there is equitable share of benefits with IP and that measures to mitigate or eliminate adverse impacts, if any, on them are adequate

- Environmental sustainability ensuring that detrimental environmental impacts such as depletion of biodiversity are avoided or mitigated
- Low cost and financial feasibility ensuring that proposed activities can be sustained with their own resources and system after completion of WaSSIP AF
- Consistency with national policies and objectives as far as is possible given that some policies such as the Forest Bill are not supportive of the IP.

The Indigenous Peoples Planning Framework of the WaSSIP AF

The following Indigenous Peoples Planning Framework (IPPF) of the WaSSIP AF develops measures to ensure that the indigenous peoples (Sengwer) receive social and economic benefits that are culturally appropriate, including measures to enhance the capacity of the project implementing agencies and other stakeholders.

The IPPF embodies a pilot phase in which the IPPF will be presented and discussed in all indigenous peoples' settlements in the WaSSIP AF operational area, to enhance the broad support from indigenous peoples for the WaSSIP AF, to provide detailed baseline data for the planning and the M&E and to integrate additional and/or specific problems to be addressed into the IPPF.

The results of these consultations will be used to redefine the IPPF during the course of its implementation. Such an open and well facilitated discussion process, which goes along with the formation of the IPPF implementing bodies, will further enhance the communication and cooperation between the indigenous peoples in the operational areas and the WaSSIP AF. To monitor and evaluate the impacts of the IPPF, draft impact indicators are elaborated, which should be redefined as one of the first activities of the proposed participatory impact monitoring on the base of the baseline data established during the pilot-phase.

During the planning phase, the main focus will be on the establishment of the institutional framework, the sensitization of all stakeholders in general and the affected populations in particular, and the gathering of baseline data. As this will involve all the Sengwer settlements in the operational areas, the IPPF should be further discussed in detail and - in case the need arises - amendments suggested to the steering committee.

Table 3. IPPF

| Indigenous People's | | | | | |
|---|---|---|----------------|----------------------|--|
| Issues | Activity | Responsibility | By When | Cost in US \$ | Indicators |
| Capacity Building for implementation of IPPF | Training of staff from LVNWSB and other implementing agencies | LVNWSB/WaSSIP AF/PCT | | 10,000 | Participants are able to implement IPPF |
| Indigenous Peoples Orientation and Mobilization | Reconnaissance survey Community meetings | LVNWSB/WaSSIP AF/PCT Indigenous Peoples Organizations/ elders | | 10,000 | Population and dynamics of IP in LVNWSB Districts well understood by key players • IP in all LVNWSB operation Districts give broad support for the project |
| Consultations with Indigenous Peoples: | Participatory Rural Appraisals/ | LVNWSB/WaSSIP AF/PCT | | 10,000 | Information from consultations |

| | | | | | |
|---|--|---------------------------------|---|--------|---|
| | Rapid | | | | verified by IP and IPOs as correct and a true representation of their needs and priorities |
| Mapping of community resources critical to IP | Baseline Surveys Community transect reports | LVNWSB/WaSSIP AF/PCT IPOs | | 10,000 | Information from consultations verified by IP and IPOs as correct and a true representation of natural, cultural and social, technical resources critical to their survival |
| Development of strategies for participation of IP and mitigation measures | Social Screening | | | 10,000 | Activities implemented respect the conditions and do not leave the IP worse off than they were • Activities respect the rights, culture and dignity of the IP |
| Capacity Building | Trainings for IP and IPO | | | 10,000 | IP and IPO use training to advance their cause |
| Equitable representation of IP in decision making organs | Election of representatives Annual Steering Committee meetings Bi-annual District Level meetings | | Project Inception, Bi-annual Annual | 10,000 | Active participation of IP in forums • IP and M&E indicate that representation is satisfactory to the IP |
| Participatory M&E with IP | Internal M&E External M&E | | Annual | 10,000 | M&E reports accessible to IP and implementing agencies • Mechanism for feedback into IPPF in place and implemented |

INSTITUTIONAL ARRANGEMENTS & ADDRESSING ANY GRIEVANCES.

Grievance Mechanism

Indigenous Peoples and other local communities and stakeholders may raise a grievance at all times to the WaSSIP AF PCT about any issues covered in this Framework and the application of the Framework. Affected communities should be informed about this possibility and contact information of the respective organizations at relevant levels should be made available. These arrangements should be described in the project-specific frameworks and action plans along with the more project-specific grievance and conflict resolution mechanism.

As a first stage, grievances should be made to the LVNWSB, who should respond to grievances in writing within 15 working days of receipt. Claims should be filed, included in project monitoring, and a copy of the grievance should be provided to the WaSSIP AF PCT.

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.

MONITORING AND REPORTING ARRANGEMENTS, INCLUDING MECHANISMS & BENCHMARKS APPROPRIATE TO THE PROJECT.

Monitoring and evaluation mechanisms

Monitoring and evaluation (M&E) are fundamental components of projects involving affected individuals, households and communities. Monitoring should be participatory and include the monitoring of beneficial and adverse impacts on Indigenous peoples within project impact areas. M&E should be based on free, prior and informed consultation with the IP who should play an integral role in its implementation. All monitoring activities are ultimately the responsibility of the LVNWSB with oversight from the WaSSIP AF PCT. The LVNWSB will be responsible for compiling the data and auditing for completeness of the records, and they will be responsible for providing compiled M&E information to the WaSSIP AF.

The overall goal of the M&E process for the Indigenous Peoples Plan is to: Ensure effective communication and consultation takes place; Report any grievances that require resolution; Document the performance of WaSSIP AF as regards the Indigenous Peoples; and allow program managers and participants to evaluate whether the Sengwer have maintained their rights, culture and dignity and that they are not worse off than they were before the project.

The objectives of evaluation include:

1. An assessment of the compliance of activities undertaken in relation to the objectives and methods identified in the IPPF;
2. An assessment of the consultation procedures that have taken place at the community and individual level;
3. An assessment on whether the affected communities have had access to mitigation activities;
4. The occurrence of grievances and extent of resolution of disputes;
5. An evaluation of the impact of the Project on income and standard of living within the communities; and
6. Identification of actions that can improve the positive impact of the Project and mitigate potential negative impacts.

The PM&E reports at district level should be produced before April 30th of each year and then be returned to all indigenous peoples' communities for feedback etc., before being handed over to the IPPF-committees at district level before October 31st. In September of each year (from 2012 on) the IPPF district committees will meet to discuss among other issues the PM&E reports, elaborate an evaluation at district level and prepare recommendations on how to fine-tune the IPPF and the WaSSIP AF further.

The district PM&E-reports, the district IPPF evaluation and the recommendation should be communicated to the national steering committee before 3rd January. The IPPF coordinator of LVNWSB will publish the district PIM reports, the district IPPF evaluations and recommendation through the MoWI webpage, communicate them to the steering committee members, the World Bank task team and the interested public. They will be the basis for the annual evaluation of the IPPF implementation carried out by the national steering committee in view of the performance indicators outlined in the IPPF and the overarching principals of this IPPF. The outcomes of this process will be further crosschecked in 2013 and 2015 by an external IPPF evaluation and the World Bank task team in view to enhance the quality further, and to guarantee that the Indigenous Peoples' dignity, human rights, economies, and cultures are respected by the WaSSIP AF, that all decisions which affect any of these are based on the free, prior, and informed consultation with the indigenous peoples, that the

indigenous peoples receive social and economic benefits that are culturally appropriate and gender and inter-generationally inclusive, that adverse effects on the indigenous peoples' communities are, as much as possible, avoided, and if this was according to the IPPF district-committees not feasible, minimize, mitigate, or compensate in a culturally appropriate manner, based on broad support by the indigenous peoples' communities.

The following indicator groups (Table 4) are suggested as a basis to measure the success and weakness of activities related to Indigenous Peoples.

Table 4. Capacity Building Plan for the IPPF

| Indigenous People's | | | | | |
|---|--|--|--|----------------------|---|
| Issues | Activity | Responsibility | By When | Cost in US \$ | Indicators |
| Capacity Building for implementation of IPPF | Number of individuals & institutions trained | LVNWSB/WaSSIP AF/PCT | Training workshops reports | | Participants are able to implement IPPF |
| Indigenous Peoples Orientation and Mobilization | Number of IP meetings; Number of IP sensitised | LVNWSB/WaSSIP AF/PCT Indigenous Peoples Organizations/ elders | Reconnaissance survey reports Community meeting reports | | Population and dynamics of IP in LVNWSB Districts well understood by key players • IP in all LVNWSB operation Districts give broad support for the project |
| Consultations with Indigenous Peoples: | Number of PRA/RRA Attendance of PRA/RRA PRA reports acceptable to IP | LVNWSB/WaSSIP AF/PCT IPO | RRA reports PRA Reports | | Information from consultations verified by IP and IPOs as correct and a true representation of their needs and priorities |
| Mapping of community resources critical to IP | Level of IP participation Reports verified and accepted by IP | LVNWSB/WaSSIP AF/PCT IPO | Baseline survey reports Community transect reports | | Information from consultations verified by IP and IPOs as correct and a true representation of natural, cultural and social, technical |

| | | | | | |
|---|--|--|---|--|--|
| | | | | | resources critical to their survival |
| Development of strategies for participation of IP and mitigation measures | Number of projects passed by social screening Number of projects implemented | | WASSIP AF reports Implementing agencies reports | | Activities implemented respect the conditions and do not leave the IP worse off than they were • Activities respect the rights, culture and dignity of the IP |
| Capacity Building | Types of training Attendance by IP | | Training reports | | IP and IPO use training to advance their cause |
| Equitable representation of IP in decision making organs | Number of meetings attended by IP representatives Number and types of IP issues articulated | | District Level and National Steering Committee reports IPO reports | | Active participation of IP in forums • IP and M&E indicate that representation is satisfactory to the IP |
| Participatory M&E with IP | Internal M&E External M&E | | Annual | | M&E reports accessible to IP and implementing agencies • Mechanism for feedback into IPPF in place and implemented |

DISCLOSURE ARRANGEMENTS FOR IPPS TO BE PREPARED UNDER THE IPPF.

Disclosure

Before finalizing the IPPF a draft will be disclosed together with the social assessment report (or its key findings) in a culturally appropriate manner to the Indigenous Peoples affected by the project. Language is critical and the IPP should be disseminated in the local language or in other forms easily understandable to affected communities – oral communication methods are often needed to communicate the proposed plans to affected communities.

After WaSSIP AF PCT and the World Bank has reviewed and approved the IPP as part of the overall proposed project for funding the final IPPF will be shared again with affected communities. The final IPPF will also be disclosed at the MoWI Web site as well as the infoshop for the case of the World Bank.

Roles and Responsibilities

LVWNSB will be responsible for following the requirements of this Framework. They will ensure that Indigenous Peoples are consulted and benefit in culturally appropriate ways. They will avoid adverse impacts on indigenous communities, or where this is not possible develop with the participation of affected communities measures to mitigate and compensate for such impacts. Finally, they are responsible for reporting to both affected indigenous communities and WaSSIP AF PCT on project progress and any unexpected and unintended events affecting Indigenous Peoples.

WaSSIP AF PCT will remain responsible for the implementation of this Framework, and will ensure that the participation of Indigenous Peoples in project activities in culturally appropriate ways is encouraged. WaSSIP AF PCT responsibilities include:

- Inform applicants and other stakeholders, including local communities, of this Framework and policy requirements;
- Assist applicants, and subsequently grantees, in the implementation of the Framework and policy requirements;
- Screen for projects affecting Indigenous Peoples;
- Review and approve project proposals, ensuring that they adequately apply the World Bank's Indigenous Peoples Policy;
- Assess the adequacy of the assessment of project impacts and the proposed measures to address issues pertaining to affected indigenous communities. When doing so project activities, impacts and social risks, circumstances of the affected indigenous communities, and the capacity of the applicant to implement the measures should be assessed. If the risks or complexity of particular issues
- Assess the adequacy of the consultation process and the affected indigenous communities' broad support to the project—and not provide funding until such broad support has been ascertained; and
- Monitor project implementation, and include constraints and lessons learned concerning Indigenous Peoples and the application of this IPPF in its progress and monitoring reports; it should be assured that affected indigenous communities are included in monitoring and evaluation exercises.

REFERENCES

-This section has been deliberately left blank and will be filled when the final report is submitted for review-

