

Report No. 135477-KE

THE INSPECTION PANEL

REPORT AND RECOMMENDATION ON A REQUEST FOR INSPECTION

KENYA

TRANSPORT SECTOR SUPPORT PROJECT (P124109) AND ITS ADDITIONAL FINANCING (P146630)

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**The Inspection Panel
Report and Recommendation
on a
Request for Inspection**

**Kenya: Transport Sector Support Project (P124109) and its Additional Financing
(P146630)**

Summary

1. This Report and Recommendation responds to a Request for Inspection alleging harm from the construction of a highway interchange in Webuye, Kenya, financed by the World Bank. During its eligibility visit in March 2019, the Panel observed that the implementation of an Action Plan agreed with the community one year earlier to address many of the harms, was nearing completion. Community members expressed concern about whether all the actions would be fully implemented in a timely manner and added that certain livelihood impacts experienced by mobile traders and small business operators had not been reflected in the Action Plan.
2. Shortly after the Panel's eligibility visit, Bank Management informed the Panel of its commitment to expand the terms of reference and extend the timeline of an existing Resettlement Action Plan (RAP) Audit to include the alleged livelihood impact not covered in the agreed Action Plan. In light of this development, the Panel is deferring its recommendation as to whether an investigation is warranted. The Panel will reassess the situation once these actions are implemented and will inform the Board of its recommendation within a period not exceeding six months.

A. Introduction

3. On December 17, 2018, the Inspection Panel (the "Panel") received a Request for Inspection (the "Request") of the Transport Sector Support Project and its Additional Financing (the "Project") in Kenya. The Request was submitted by three members of the project-affected community (the "Requesters"), alleging harm from the Webuye interchange construction, which is part of the Webuye-Kitale road works and financed by the Project.¹ The complaint raises concerns about the environment, health and safety, livelihoods and working conditions, as well as consultation and information disclosure. The Requesters asked the Panel to keep their identities confidential.
4. The Panel registered the Request on January 17, 2019, and notified the Board of Executive Directors (the "Board") and Bank Management. Management submitted its Response on February 19, 2019.

¹ On March 19, the Panel received a list of over 70 community members, with signatures, in support of the Request.

5. In accordance with the Resolution establishing the Panel,² the purpose of this report is to make a recommendation to the Board as to whether an investigation into the matters alleged in the Request is warranted. The Panel's recommendation is based on its consideration of the technical eligibility of the Request and its assessment of other factors in the Panel's Resolution and Operating Procedures as further described in paragraph 49 below.

6. This report provides a description of the project (Section B), a summary of the Request (Section C), a summary of the Management Response (Section D), and the Panel's observations and review (Section E). The Panel's recommendation is presented in Section F.

B. The Project

7. The Transport Sector Support Project was approved on April 21, 2011, in an amount of US\$300 million equivalent. The Additional Financing was approved on March 26, 2014, in an amount of US\$203.50 million equivalent, and became effective on June 20, 2014.³

8. The Project development objectives are to: (a) increase the efficiency of road transport along the Northern Corridor and the Tanzania-Kenya-Sudan road corridor; (b) enhance aviation safety and security to meet international standards; and (c) improve the institutional arrangements and capacity in the transport sector.⁴ The Additional Financing introduced two activities in response to emergencies at the Jomo Kenyatta International Airport (JKIA). These are to: (d) restore the capacity of the international passenger terminal destroyed in a fire at JKIA; and (e) strengthen the capacity of Kenya Airports Authority in disaster preparedness and responsiveness at Kenyan airports.⁵

9. The Project has four components: (i) Support to Kenya National Highways Authority (KeNHA) to improve roads, roadside facilities and road safety and for institutional strengthening; (ii) Institutional strengthening and capacity building in the transport sector; (iii) Support to Kenya Airports Authority; and, (iv) Support to Kenya Civil Aviation Authority.⁶ The Requesters' concerns relate to the first component.

10. The first component covers the rehabilitation and improvement of several road sections in Kenya, including the Kisumu-Kakamega-Webuye-Kitale road section, which includes the Webuye interchange. KeNHA is responsible for the implementation of this component, which also includes the provision of social infrastructure in selected locations to enhance the economic status of the Project host communities. Social infrastructure comprises bus parking, markets, schools, health facilities, water supply, improved access roads to public facilities, and enhancement of road safety

² International Development Association (Resolution No. IDA 93-6), The World Bank Inspection Panel, September 22, 1993 (the "Resolution"), para 19. Available at: <http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/ResolutionMarch2005.pdf>.

³ World Bank, Management Response to Request for Inspection Panel Review of the Kenya: Transport Sector Support Project (P124109) and its Additional Financing (P146630), dated February 19, 2019 (the "Management Response"), pp. 1-2, paras. 5-6.

⁴ Management Response, p. 2, para. 7.

⁵ Management Response, p. 2, para. 7.

⁶ Management Response, pp. 2-3, para. 8.

through improvement of hazardous locations such as major junctions, traffic-calming measures and pedestrian crossings.⁷

11. The environmental category of the Project is “B”.⁸ The Project triggered the following safeguard policies: Environmental Assessment (OP/BP 4.01); Physical Cultural Resources (OP/BP 4.11); and Involuntary Resettlement (OP/BP 4.12).⁹

12. The closing date of the Project was extended to December 31, 2019, “*to allow for the completion of some incomplete activities including implementation of associated resettlement action plans.*”¹⁰

13. At the time of receipt of the Request, on December 17, 2018, the Project was 92.33 percent disbursed. Management stated that as of December 31, 2018, the cumulative disbursements for the original International Development Association Credit and the Additional Financing were US\$261.3 million and US\$167.70 million equivalent, or 96 percent and 91 percent, respectively.¹¹

C. Summary of the Request

14. The Request for Inspection was submitted by three members of the project-affected community who asked for confidentiality. The Request is attached to this report as Annex I. The Requesters’ concerns relate to impact from works on the Webuye interchange, located along the Webuye-Kitale road, which is financed by the Project. The complaint raises concerns about the environment, community health and safety, livelihoods, and labor conditions, as well as a lack consultation and information disclosure. Some of the alleged impacts relate to the construction phase of the interchange, while others are of a longer-term nature.

15. **Environment.** The Requesters claim that the Project is being implemented without adequately disclosing mitigation measures, including measures related to the management of hazardous waste, such as safe collection and recycling, and disposal of chemical wastes. They add that discharge of water and sewage from the construction site used to flow to the road and affect nearby structures, road users (including pedestrians and cyclists), and roadside vendors. Further, they raise concerns about an increase in organic and inorganic solid waste and an increase in air pollution and greenhouse gas (GHG) emissions due to increased fossil fuel consumption.

16. **Community Health and Safety.** The Requesters claim that the Webuye-Kitale road works have compromised community health and safety. They consider that the affected vulnerable population is exposed to the risks of hazardous pollutants. They add that the exposure to contaminated air, dust, and noise pollution could have long-term negative health impact on those affected, especially the mobile vendors, small businesses, and residents near the interchange.

⁷ Management Response, p. 2, para. 8.

⁸ World Bank, Kenya Transport Sector Support Project (P124109), Report No: 60005-KE, Project Appraisal Document, March 29, 2011 (the “PAD”), p. i and p. 66, para. 53.

⁹ PAD, p. iii.

¹⁰ World Bank, Kenya Transport Sector Support Project (P124109), Report No: RES34865, Restructuring Paper, December 2018, para. 1.

¹¹ Management Response, p. 3, para. 9.

17. The Requesters raise concerns about the safety of members of the community. They state the provision of utility services was disrupted during construction. They add that vibration from construction works has caused cracks in structures owned by some members of the affected community. They are concerned about the lack of walkways and road crossing points, which makes access difficult.

18. The Requesters express particular concern about the children's safe access to school after the completion of the interchange. They claimed that the lack of safe crossing points near the schools is compelling children to take a 30-minute longer route using a busy road, putting them at heightened risk.

19. **Livelihoods.** The Requesters allege that the Webuye interchange will have a long-term negative socioeconomic impact on vendors and businesses. They explain that the lack of walkways from the road makes it difficult to access the shops. They also refer to the dust and air pollution affecting the quality of roadside food, vegetables, fruits, meat and other shop items. According to the Requesters, the compensation for loss of business, provision of modern kiosks or a market, and other roadside facilities could have improved the business opportunities of local vendors and mobile traders.

20. The Requesters state that the Project has particularly had an impact on women who lost business opportunities, which affected their livelihood. The Requesters also state their concern about the rehabilitation of agricultural land used temporarily by the Contractor during construction.

21. **Labor Conditions.** The Requesters allege that workers were not provided proper Personal Protective Equipment (PPE) and their working conditions have *"never been human."* The Requesters also allege that toilets at the construction site overflowed during the rainy season.

22. **Information Disclosure and Consultation.** The Requesters believe information was lacking for the community to make meaningful and informed choices about livelihood restoration, compensation and other resettlement entitlements. The Requesters further claim that the Project's Environmental Assessment was never disclosed and that no information was provided about toxic chemicals, hazardous waste and other dangerous materials. The Requesters reference the commentary to principle 7 of the Framework Principles on Human Rights and the Environment: *"Public access to environmental information enables individuals to understand how environmental harm may undermine their rights, including the rights to life and health, and supports their exercise of other rights, including the rights to expression, association, participation and remedy."*¹²

23. The Requesters believe there has been no meaningful stakeholder consultation in a manner that is proportionate to the risks and impacts on affected communities during the construction phase. They also quote from the Universal Declaration of Human Rights, and the International

¹² Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, Annex Framework principles on human rights and the environment. Available at: https://www.ohchr.org/Documents/Issues/Environment/SREnvironment/A_HRC_37_59_EN.pdf.

Covenant on Civil and Political Rights, the right of all persons “to seek, receive and impart information,”¹³ including on environmental matters.

D. Summary of the Management Response

24. The Management Response is attached in full as Annex II to this Report. Management states that it has taken the complaints seriously and carefully reviewed the concerns of the Requesters. According to Management, most of the issues raised in the Request have been resolved. Much of the impact was temporary and linked to construction, which is now nearing completion.¹⁴

25. Management adds that following the submission of the Request for Inspection, a Bank mission met with community members and the Requesters on site in January 2019 to discuss remaining concerns and how they could be addressed.¹⁵ A few newly identified issues were incorporated into the already existing Action Plan prepared in February 2018 to address concerns expressed earlier by the community. Management commits to ensure that these actions are properly implemented by March 31, 2019.¹⁶

26. **Environment.** Management indicates that most environmental issues raised were known and had been analyzed in the Environmental and Social Impact Assessment (ESIA) and were managed in line with Bank policies during implementation.¹⁷ Management considers that the safeguard documents (ESIA, Contractor’s Environmental and Social Management Plan or CESMP, and RAP) appropriately address the Project’s impact.¹⁸

27. Management asserts that no hazardous materials or chemical additives were used for the construction works, nor was there any harmful discharge. The construction materials used included cement, bitumen, prime coat and steel. Management found no evidence that hazardous materials or waste had been used or discharged in the vicinity of the Webuye interchange.¹⁹ Management states that it has also found no record, evidence or testimony from community members of gray/black water or sewage discharge.²⁰ Management adds that the scope of work for the Webuye interchange includes the provision of drainage canals to manage storm water to be completed by March 31, 2019.²¹

¹³ Universal Declaration of Human Rights, art. 19. Available at: [http://undocs.org/A/RES/217\(III\)](http://undocs.org/A/RES/217(III)), or http://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf. And the International Covenant on Civil and Political Rights, art. 19. Available at: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

¹⁴ Management Response, p. vi, paras. vii and viii.

¹⁵ Management Response, p. 11, para. 27.

¹⁶ Management Response, p. 22, para. 58.

¹⁷ Management Response, p. 12, para. 28. Management states that, by the date of the Management Response, there were 16 formal implementation support missions and several ad hoc missions fielded to address specific issues that arose during the implementation phase (Management Response, p. 4, para. 11.).

¹⁸ Management Response, p. 12, para. 28.

¹⁹ Management Response, p. 12, para. 32.

²⁰ Management Response, p. 13, para. 33.

²¹ Management Response, p. 14, para. 37.

28. The Management Response adds that the Contractor removed boulders and fill material that encouraged unhygienic toilet practices.²² It adds that a licensed sewage company assisted in emptying pit latrines and septic tanks located in the construction camps in conformity with the National Environmental Management Authority (NEMA) requirements before any spillage occurred.²³

29. Management states there is no evidence of poor solid waste management practices (either organic or inorganic).²⁴ It explains that as part of the CESMP, the Contractor prepared and implemented a waste management plan.²⁵ Management clarifies that, unrelated to the Project, there is a significant waste management problem in the area.²⁶

30. Concerning GHG emissions, Management states that the construction of grade-separated interchanges improves traffic flow, reducing congestion and emissions. Management expects traffic flow improvement to reduce GHG emissions by approximately 25 percent.²⁷

31. **Community Health and Safety.** Management acknowledges that mitigation measures for dust generation required adjustment to achieve their objectives.²⁸ The Contractor monitored dust emission levels and watered the area, as appropriate (initially up to 3 times/day, then 4-5 times/day after some complaints).²⁹ Management adds that as construction is substantially completed, no more dust emission is expected.³⁰

32. Concerning noise and vibration, Management believes that implementation of the Project did not result in noise pollution above acceptable levels (75 A-weighted decibels as per NEMA regulations for day works) or in vibrations causing harm to local structures. Noise was limited to the daytime working hours, as per the environmental audit report of February 2018, and workers exposed to noise levels were provided with ear muffs.³¹ Management explains that even though it could not be established that cracks in two structures were caused by the construction work, it requested KeNHA to arrange for the Contractor to seal the cracks by March 31, 2019.³²

33. In terms of the utility services disruption, Management acknowledges that water provision was disrupted in November 2018 when a water pipe was cut. However, service was restored within three hours. Management states that it is unaware of any other disruption in utility services.³³ Management adds that the Contractor provided temporary street lights in August 2018 during construction and that a permanent lighting system will be installed upon construction completion, by March 31, 2019.³⁴

²² Management Response, p. vii, para. xiii.

²³ Management Response, p. 12, para. 33.

²⁴ Management Response, Annex 1, p. 29, Response No. 5.

²⁵ Management Response, p. 8, para. 17.

²⁶ Management Response, p. 15, para. 38.

²⁷ Management Response, p. 15, para. 39.

²⁸ Management Response, p. 12, para. 28.

²⁹ Management Response, p. 12, para. 31.

³⁰ Management Response, p. 22, para. 59.

³¹ Management Response, p. 13, para. 34.

³² Management Response, p. 13, para. 35 and p. ix, para. xiv.

³³ Management Response, p. 14, para. 36.

³⁴ Management Response, p. 22, para. 59.

34. Management states that, to allow access to homes and businesses from the roadside, the Contractor has constructed access slabs over culverts. New demands from the community are to be reviewed by the Resident Engineer and KeNHA to determine whether they can be accommodated.³⁵ Management also states that the Contractor provided temporary crossing signs and bumps during construction for safe pedestrian access along the interchange. However, as of March 2019 safe road-crossing will be enabled by four crossing points, two at the roundabout and two at either end of the bridge that is part of the interchange. Speed bumps, signage, guard rails, rumble strips and zebra crossings markings will be installed at these four points to decrease traffic speed.³⁶ In addition, the Contractor will level the road reserve adjacent to the carriageway to ease movement of pedestrians and mobile traders.³⁷

35. Management states that there are four schools located near the interchange that will benefit from the provision of the four crossing points. The children may be required to walk a slightly longer distance, though not exceeding 200 meters.³⁸ Management adds that KeNHA has scheduled an intensive and comprehensive road safety awareness campaign targeting schools. The awareness campaign will include crossing techniques, information, education and communication material, and road-user behavioral change. This campaign was expected to take place between February 20 and March 31, 2019.³⁹

36. **Livelihoods.** Management states that RAP preparation took place between 2010 and 2013. RAP implementation began in 2014. Compensation was paid out to title holders of land that was acquired, except for one land parcel at the Webuye interchange, the subject of a succession dispute that KeNHA and the government are working towards resolving. Management states that a RAP completion report was submitted to the Bank on August 8, 2018.⁴⁰ Given that this report does not disaggregate the Webuye interchange data from the Webuye-Kitale road section, Management required a RAP audit to be carried out to ensure that all project-affected people identified in the 2011 RAP have been duly compensated. The RAP audit process started on February 11, 2019.⁴¹

37. Management explains that while women mobile traders were not identified in the RAP prior to the January 27, 2011, cutoff date, “*there remains a possibility that mobile traders were missed at that time.*”⁴² However, Management emphasizes that engagement is ongoing.⁴³ Management also notes that on July 14, 2018, the Contractor was asked to visit Dinah market, where women mobile traders place their wares on the ground, to see the impact of the dust emissions. Thereafter, the Contractor increased the frequency of watering at this section.⁴⁴

³⁵ Management Response, p. 22, para. 59.

³⁶ Management Response, p. 23, para. 59.

³⁷ Management Response, p. 24, para. 60.

³⁸ Management Response, Annex 1, p. 37, Response No. 13.

³⁹ Management Response, p. 23, para. 59, and p. ix, para. xiv.

⁴⁰ Management Response, pp. 8-9, para. 18.

⁴¹ Management Response, Annex 1, p. 32, Response No. 9.

⁴² Management Response, p. 19, para. 49.

⁴³ Management Response, Annex 3, p. 32, Action and Status No. 13.

⁴⁴ Management Response, Annex 1, p. 29, Response No. 4.

38. Management notes the demand of traders to establish a roadside market. This was not included in the Project and has turned out to be difficult to accomplish due to the lack of available land. Nonetheless, Management commits to work with KeNHA to explore suitable land near the interchange for these traders.⁴⁵ Meanwhile, as part of the 2018 Action Plan the inclusion of a water kiosk and a public toilet block were identified as measures expected to benefit the mobile traders.⁴⁶

39. In response to a specific concern that a plot of land leased to the Project would not be restored to farmland, Management states that this assumption is erroneous. Management confirmed that there has been no change of the land-use or zoning classification for that land. According to Management, the Contractor confirmed that, as per the CESMP, the land will be restored as farmland once the lease ends on March 20, 2019. Management stated that it will ensure that KeNHA actively follows up on this issue.⁴⁷

40. **Labor Conditions.** Management states the CESMP contains an Occupational Health and Safety Management Plan, which is under implementation.⁴⁸ It adds that it was made aware of the inadequate PPE in July 2018 and the Contractor was requested by KeNHA to ensure compliance with the contractual provisions. The following monitoring reports and supervision visits confirmed that workers were provided appropriate PPE.⁴⁹ Additionally, Management states that the workers' pay is above the national minimum wage, that working hours are between 7 am and 6 pm with a one-hour lunch break, and that workers receive overtime pay. According to Management, workers have the freedom to join a trade union and some have.⁵⁰

41. **Information Disclosure and Consultation.** Management states that the Bank reviewed, cleared and disclosed the Project's ESIA and the RAP by the time of appraisal of the original credit. Both documents were disclosed at the World Bank's InfoShop and in-country on February 18, 2011, and February 22, 2011, respectively. In Kenya, the ESIA and RAP documents are available on NEMA's website, and in hard copy at its headquarters and county level office in Bungoma.⁵¹ Between 2014 and 2016 the design on the Kitale-Webuye road was reviewed. In 2014 a Supplemental ESIA was prepared and in 2016 a design revision of the interchange led to confining the works within the available land (reducing the land take by 88 percent) and minimizing resettlement, environmental, economic, safety and social impact. According to Management, since the design revision did not result in any substantial changes, the Supplemental ESIA was not submitted to the Bank for clearance or disclosed.⁵² Furthermore, the 2011 RAP was updated in 2013 with only minor changes and not disclosed.⁵³

42. Management acknowledges that the stakeholder engagement could have been more robust.⁵⁴ Management states that the ESIA preparation process included stakeholder engagement

⁴⁵ Management Response, p. 19, para. 50.

⁴⁶ Management Response, p. 19, para. 49.

⁴⁷ Management Response, pp. 19-20, para. 52.

⁴⁸ Management Response, p. 8, para. 17.

⁴⁹ Management Response, p. 20, para. 53.

⁵⁰ Management Response, p. 20, para. 54.

⁵¹ Management Response, p. 7, para. 14.

⁵² Management Response, p. 7-8, para. 15.

⁵³ Management Response, p. 21, para. 56.

⁵⁴ Management Response, p. 8, para. 16.

in both 2008 and 2014 and that consultations for the RAP were held in 2010 and 2013.⁵⁵ Consultations were held in the local language, Kiswahili, as well as in English, which is accepted and understood by the people in the project area. During supervision missions Management reiterated the significance of continuous engagement and systematic documentation of the proceedings.⁵⁶ Management submitted a timeline of the Project-related consultations, which took place between June 26, 2008, and January 24, 2019.⁵⁷ Management lists 10 meetings between June 2008 and January 2019 in which women were recorded as participants.⁵⁸

43. Management states that on January 31, 2018, community members raised complaints with KeNHA. These complaints were discussed on February 20, 2018, with leaders and community members and led to the establishment of a Grievance Redresses Committee (GRC) and the development of a remedial Action Plan. The plan included measures concerning: (a) safety at the interchange; (b) employment of locals; (c) night lighting; (d) disruption of business due to traffic diversion; (e) storm water drainage; and (f) dust pollution.⁵⁹ Management confirms that this plan is under implementation. Management notes that the GRC met 11 times between when it was formed in February 2018 and the time of the Management Response in February 2019. It adds that its members, seven men and three women, have taken on a liaison role in disseminating the conclusions and resolutions of such meetings.⁶⁰

44. Management also states that in January 2019, after receiving the Request, it met with the community and the Requesters. Management noted that most of the concerns raised in the Request for Inspection were already duly integrated in the February 2018 Action Plan. However, additional issues were identified, including: (i) an allegation that two houses suffered cracks due to the construction-related vibrations; (ii) the necessity to intensify road safety awareness among students and other road users; (iii) undertaking of a RAP audit to ascertain that all project-affected persons have been duly compensated; and (iv) requests by the mobile traders to level the ground surface near the carriageway.⁶¹ These actions are expected to be completed by March 31, 2019.⁶²

E. Panel Review of the Request and the Management Response, and Eligibility Visit

45. Panel Members Jan Mattsson and Ramanie Kunanayagam, and Senior Operations Officer Serge Selwan visited Kenya from March 5 to 9, 2019. The Panel team held meetings in Nairobi and Webuye. In Nairobi, the team met with representatives of the World Bank Country Office at the beginning and end of the visit. The team also met with officials from the Kenyan National Treasury, the Ministry of Transport, KeNHA and the Project Coordinator. In Kitale and Webuye, the team met again with KeNHA, as well as with the Contractor, the Resident Engineer, and county and district officials. The Panel also met with the Requesters and other potentially affected

⁵⁵ Management Response, p. 8, paras. 16 and 18.

⁵⁶ Management Response, Annex 1, p. 25, Response No. 1.

⁵⁷ The consultation timeline is attached as Annex 2 to the Management Response.

⁵⁸ These include four ESIA consultations between June and July 2008, a consultation in June 25, 2014, over the supplementary ESIA, two RAP-related consultations in August 2013 and February 2018, and the grievance redress meetings of February 20, 2018, January 4 and 23, 2019.

⁵⁹ Management Response, p. 10, paras. 23-24. The Action Plan is attached as Annex 3 to the Management Response.

⁶⁰ Management Response, Annex 1, p. 26, Response No. 1, and p. 10, para. 24.

⁶¹ Management Response, p. 11, para. 27.

⁶² Management Response, p. 24, para. 60.

community members and their representatives. The Panel conducted several walk-throughs of the Webuye interchange with different stakeholders at different times.

46. The Panel wishes to express its appreciation to all those mentioned above for sharing valuable information and perspectives. The Panel also wishes to express its appreciation particularly to the World Bank Country Office staff in Nairobi for their invaluable assistance with logistical arrangements.

47. The Panel's review is based on information presented in the Request, the Management Response, relevant project documents, and information gathered during the site visit. The following review covers the Panel's determination of the technical eligibility of the Request in accordance with the criteria set forth in the 1999 Clarification (subsection E.1), observations on other factors (subsection E.2), and the Panel's review (subsection E.3) supporting the Panel's recommendation.⁶³

E.1. Determination of Technical Eligibility

48. The Panel is satisfied that the Request meets all six technical eligibility criteria of paragraph 9 of the 1999 Clarification. The Panel notes that its confirmation of technical eligibility, which is a set of verifiable facts focusing to a large extent on the content of the Request as articulated by the Requesters, does not involve the Panel's assessment of the substance of the claims made in the Request.

- Criterion (a): *“The affected party consists of any two or more persons with common interests or concerns and who are in the borrower’s territory.”* The Panel has verified that the Requesters include two or more persons living near the Webuye interchange. The Panel therefore considers this criterion as met.
- Criterion (b): *“The Request does assert in substance that a serious violation by the Bank of its operational policies and procedures has or is likely to have a material adverse effect on the Requester.”* The Requesters consider that the lack of access to the Project's environmental and social documents have hindered their ability to understand the Project's impact and related mitigation measures. Community members claim to have lost income, temporarily or permanently, leading to a decline in their livelihoods during the construction phase and for some even after Project completion. The Panel considers this criterion is met.
- Criterion (c): *“The Request does assert that its subject matter has been brought to Management’s attention and that, in the Requester’s view, Management has failed to respond adequately demonstrating that it has followed or is taking steps to follow the Bank’s policies and procedures.”* The Panel has verified that the Requesters’ concerns were brought to the Bank’s attention prior to the filing of the Request. The Requesters first contacted the Panel on October 24, 2018, but at that point Management had not been informed about the issues. After contacting Management, the Requesters approached the

⁶³ The 1999 Clarification of the Board's Second Review of the Inspection Panel, April 1999 (the “1999 Clarification”). Available at <http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/1999ClarificationoftheBoard.pdf>.

Panel again on December 9, 2018, indicating their dissatisfaction with the response received. The Panel is satisfied that this criterion is met.

- Criterion (d): “*The matter is not related to procurement.*” The Panel is satisfied that the claims do not raise issues of procurement and thus this criterion is met.
- Criterion (e): “*The related loan has not been closed or substantially disbursed.*” At the time of receipt of the Request, the Project was 92.33 percent disbursed. Therefore, this criterion is met.
- Criterion (f): “*The Panel has not previously made a recommendation on the subject matter or, if it has, that the Request does assert that there is new evidence or circumstances not known at the time of the prior Request.*” The Panel has not made a recommendation on the issues raised in this Request and this criterion is thus met.

E.2. Panel Observations Relevant to its Recommendation

49. In making its recommendation to the Board and in line with its Operating Procedures, the Panel considers the following: whether there is a plausible causal link between the harm alleged in the Request and the project; whether the alleged harm and possible non-compliance by the Bank with its operational policies and procedures may be of a serious character; and whether Management has dealt appropriately with the issues, or has acknowledged non-compliance and presented a statement of remedial actions that address the concerns of the Requesters. Below, the Panel records its preliminary observations on the alleged harm and compliance, noting that in doing so, it is neither evaluating the sovereign decisions of the Borrower, nor making any definitive assessment of the Bank’s compliance with its policies and procedures, and any adverse material effect this may have caused.

50. Most of the concerns raised by Requesters and community members during the visit of the Panel team related to access and road safety, disruption of livelihoods, and lack of meaningful consultations throughout the Project. Bank staff and KeNHA explained the status of implementation of the February 2018 Action Plan, elaborating on what remained to be accomplished. They indicated to the Panel team their willingness to take further action, if necessary and feasible.

51. **Environment.** The environmental issues alleged in the Request were mostly related to the construction phase and did not feature strongly in concerns raised to the Panel during its visit. With regard to dust emissions, whereas some community members maintained it had been a major problem, others told the Panel that it had not been worse than could be expected during construction. KeNHA, the Resident Engineer and the Contractor asserted that no hazardous or toxic material had been used during construction. The Panel team inquired with the Requesters as to the reason behind their concern and was unable to establish an indication of serious harm.

52. **Community Health and Safety.** Children’s safe crossing of the road and access to schools was an important area of concern for all stakeholders. Bank staff and KeNHA informed the Panel that four crossing points would enable safe crossing of children and other pedestrians. Two of these

crossings are located at the roundabout and two at either end of the bridge that is part of the interchange. The Panel team was informed that the design includes speed bumps, signage, guard rails, rumble strips and zebra crossing markings as speed-calming measures, and these measures were under implementation.

53. KeNHA informed the Panel that it had scheduled intensive and comprehensive road safety awareness campaigns with special attention to schools. The sensitization campaign includes safe crossing techniques; information, education and communication material; and road user behavioral change. This campaign targets road users in the vicinity of the Webuye interchange and all schools.

54. The Panel team was able to verify the ongoing implementation of road safety measures. It walked around the circle, under the bridge, and crossed at the points intended for safe crossing. It also visited a school and met with the principal and three teachers. The Panel team was informed that they and the school children had been given a 40-minute awareness raising session and showed the material given to them for use as part of their teaching. Teachers complained that for many children and those accompanying them, the walk to and from school is longer. The Panel estimated that the walk around the bridge would not add a significant amount of time to safely cross from one side of the road to the other. The Panel also met with KeNHA staff raising awareness about safe road-use among drivers and pedestrians, and was given copies of the Swahili language pamphlet distributed as part of the campaign.

55. During the Panel team's walk-through, community members pointed out that the safe crossings were not all complete, and the difficult access to one of them located at the end of the bridge where school children were climbing a very steep slope to cross, instead of walking a longer distance, and then following the main road back towards the crossing. They asked for stairs to connect the crossing with their place of living. Other community members showed an additional crossing point, close to the circle on the road heading north towards South Sudan, indicating that it was not equipped with rumble strips and consisted only of a bump with zebra markings on it. The diagram of the interchange layout in the Management Response shows that the crossing will consist of speed bumps and rumble strips at each side of the bump.⁶⁴ According to the Action Plan and as confirmed during the site visit, all speedbumps and markings will be completed by March 31, 2019.

56. Discussions also covered street lights. KeNHA informed the Panel that the Contractor was in the process of installing permanent street lights. According to the Action Plan, the task is expected to be completed by March 31, 2019. The Panel observed some of the related work, which was nearing completion. KeNHA also informed the Panel that the remaining tasks are pending the electricity company linking the electricity poles to the grid, before the Contractor makes the final installations.

57. **Livelihoods.** All stakeholders were aware of measures in the Action Plan to construct a toilet block, set up a water kiosk, and drill a borehole. These actions, relating to amenities for businesses and their customers, and implemented through KeNHA's corporate social responsibility program, were viewed positively by the community, provided they are delivered. The Panel team observed the construction of the toilet block and its septic tank. It was told that KeNHA had

⁶⁴ Management Response, Schematic Diagram Showing Pedestrian and Vehicle Movements at the Webuye Interchange, p. 16, para. 42, and p. 47.

allocated the funds for the borehole, which would provide water to the toilets, and the yet-to-be constructed water kiosk, and that the Contractor could finish the boring in a week. However, this work was delayed given the absence of land available for the water kiosk.

58. Bank staff indicated to the Panel team that the RAP had not identified mobile traders by the time of the cutoff date on January 27, 2011. Hence, a marketplace at Webuye was not envisaged. They explained that mobile traders were identified in other parts of the road and a marketplace was therefore included in the RAP as a community compensation measure in these locations. In discussions with the Panel team, Bank staff, as well as government officials, remained open to the possibility that, due to the intermittent nature of the business, mobile traders in the area may have been missed as the RAP was developed. District officials indicated to the Panel team there had been mobile traders on the roadside at the time of the cutoff date and estimated the number at not more than 10.

59. The Panel team met with women who claimed they had been selling agricultural produce at the roadside for many years prior to the census. In 2016, they were forced to vacate. The Panel was informed of an instance where a kiosk was demolished, as the construction of the interchange began. Since then, they said, it had been a challenging time for them, with children to educate and loans to pay.

60. KeNHA informed the Panel that it has agreed in principle to support the construction of a marketplace, as a corporate social responsibility measure. This would, however, require that suitable land be provided by the county. The Panel team was told that the county was exploring the purchase of private land adjacent to the interchange. Additionally, by March 31, 2019, the Contractor was to level the road reserve adjacent to the carriageway to ease movement of pedestrians and improve the conditions for the many mobile traders who had been attracted by the location of the new interchange.

61. The Panel team also met with business owners who were affected by the Project redesign, some of them landowners, others tenants. They claim loss of revenue during construction. They explained that the original Project design had a larger footprint, which included the land where their businesses were located. Those who were landowners were at the time informed that they would be compensated for land acquired by the Project. After the redesign they discovered that they would keep their land and no longer be relocated. However, they claimed they were not made aware of the various impacts caused during construction; e.g. traffic diversion causing difficulty of access and dust damaging perishable goods. One business owner showed the Panel team how flood water had entered his shop during construction and damaged goods that could no longer be sold. While most of these losses were temporary in nature, some were permanent as businesses were not able to recover from their losses and subsequently had to close. Another compelling case explained to the Panel team during its visit, was of a tenant shopkeeper who was only given three days' notice to evacuate when the land was taken for the construction. These business operators claimed that they were not compensated for their losses.

62. A major remaining concern expressed to the Panel team by business owners dealt with access for customers and delivery trucks following the construction of the interchange. Specifically, they said, open drainage canals separate shops and other businesses from the road. KeNHA

explained, and the Panel team could confirm from its own observation, that access points across drainage canals had been, and are still being installed in many locations and that businesses are often in close proximity to each other. Therefore, a crossing slab could serve one or more businesses. The Panel was informed that any additional access point would need to be requested from, reviewed by, and agreed with KeNHA. Meanwhile, the Panel team observed how some shopkeepers had built temporary access bridges out of wood. This, however, was problematic as it risks disturbing the flow of rain water in the drainage canals. The Panel also saw one location where vehicle access required for a business was no longer possible, and the business was therefore closed. The business owner told the Panel team that he had been assured that vehicle access would be arranged.

63. Some business owners complained about loss of parking space for their customers, resulting in reduced sales. KeNHA explained the road would include a parking lane, where parking spots would be marked, and a driving lane. The business owners who heard this explanation were satisfied.

64. **Labor Conditions.** The Panel witnessed some construction activity where workers were using PPEs. The Resident Engineer told the Panel that workers' conditions were monitored. When workers were seen not wearing PPEs, the Contractor was asked to distribute and enforce adequate PPE use. He also informed the Panel that sub-contractors were not always proactive at distributing PPEs. However, corrective measures were put in place when this was reported.

65. **Information Disclosure and Consultation.** During its visit, the Panel heard concerns about a lack of information sharing, especially in the earlier stages of the Project. This included RAP and ESIA consultations, cutoff date for the RAP, environmental mitigation measures, and disclosure of environmental and social documents. KeNHA informed the Panel that the Project's environmental and social documentation, including the CSEMP were disclosed and are available for any community member to review or take a copy. Community members informed the Panel of their intention to request a copy.

66. As for stakeholder engagement, Bank staff, KeNHA and the Requesters valued the role of the GRC in acting as a liaison between the Project and the community. The Requesters, however, pointed to weaknesses in its set-up in terms of clarity of mandate and lack of resources. The Panel was told that the GRC meets frequently and keeps minutes. The GRC maintains records of complaints it receives. The Panel noted that not all community members were aware of the GRC or its procedures.

67. The Panel met with members of the GRC and noted its voluntary nature and lack of funding. The Panel noted that members of the GRC were concerned with perception in the community of the GRC, as community liaison, having a privileged engagement with the authorities. This, they claimed, was creating envy and tension among community members and the GRC, which hinders its effectiveness. According to GRC members, their role is confined to raising the issues in the Action Plan but they do not have a mandate or capacity to address the concerns of mobile traders or businesses experiencing lost income.

68. **Other remaining concerns.** Many community members expressed concern about access to their home or business due to the drainage canals. They also questioned whether these canals would prove adequate in the upcoming rainy season. The Panel team observed that much of the area at the interchange already benefitted from the newly installed drainage canals, except for one segment on the southern side of the interchange. The team also saw places where water had stagnated in the drainage canals. According to the Resident Engineer, this would be corrected before completion of the works. The Panel team noted the existence of trash discarded in the drainage canals, hindering the flow of water.

69. The Panel team was shown an area where people could not access their houses pending the construction of an access road. The Panel team was told that funds were set aside for this purpose and observed that some buildings had already been demolished, and that the power company plans to move some electricity poles before the road would be built.

70. Community members pointed to cracks in houses and said they were caused by the construction. The Panel could not verify the cause of these cracks. It is noted, however, that the Contractor is expected to seal identified cracks in two houses adjacent to the interchange.

71. Community members also mentioned to the Panel team how a road to a nearby quarry had been destroyed by the Contractor's heavy trucks. They were concerned about the necessary repair of this road. The Panel team was unable to raise this issue with KeNHA, as to whether the quarry and the road, would be restored.

72. The Request for Inspection referred to a plot of agricultural land that was leased for the purpose of a Contractor sub-camp and was to be rehabilitated at the end of the lease. The Panel observed the land cleared of all equipment, material, or structures, and a tractor removing the gravel. There were mounds of soil on the lot, presumably intended for the rehabilitation. The Panel team had the impression that the land was being restored as per the lease contract.

73. Finally, in line with its practice, the Panel team inquired with the Requesters about their concerns, if any, of intimidation and retaliation. The Panel team did not sense tension between Project proponents and community members and had the impression that interactions between various stakeholders did not contain intimidation of any sort.

E.3. The Panel's Review

74. The Panel wishes to highlight the many advantages of this investment to Kenya's national economy as well as to the local economy in Webuye, as expressed by the stakeholders, including community members, with whom the Panel team interacted.

75. Based on its observations and analysis, the Panel recognizes that the Action Plan agreed between community members and KeNHA in February 2018, when fully implemented, will address most of the concerns raised by Requesters. This includes installation of street lights, construction of drainage canals, establishment of permanent crossing points, support to businesses at the interchange, reduction in dust emissions, and restored accessibility to homes and businesses.

The Panel notes that many of these actions have been completed or are planned for completion by March 31, 2019.

76. The community expressed its concerns about possible delays in the implementation of some actions including in cases where measures are beyond the control of KeNHA. For example, members mentioned the construction of the water kiosk and the establishment of a new marketplace for mobile traders near the interchange, which would depend on the county making suitable land available. They also mentioned the access road reconnecting several homes to the road system, which can only be done after the power company moves electricity poles.

77. The Panel believes that since its creation in February 2018 the GRC has played an essential liaison role between stakeholders. It has been taken seriously by government authorities, KeNHA, the Resident Engineer and many residents. However, the Panel was told the voluntary nature of the GRC with its limited mandate, resources, capacity, and duration have reduced its ability to address all types of grievances.

78. In its response, Management acknowledges that stakeholder engagement could have been more robust.⁶⁵ In addition, Management recognizes that the RAP was updated in 2013 with no major changes and that this version was not disclosed. Management also states that the 2014 redesigned ESIA was not submitted for clearance and was not disclosed by the Bank.⁶⁶ Community members told the Panel team that they were not consulted on changes to the Project footprint and its implications for them. Management justifies the lack of disclosure with the reduction of the footprint as having lesser impact on the community in terms of land-take. The Panel acknowledges the efforts to minimize land-take. At the same time, the Panel notes a set of different impacts on people's livelihoods created by this change.

79. The Panel also notes the long delay between the cutoff date for the Webuye interchange (January 27, 2011) and RAP implementation, which began three years later in 2014, and the beginning of construction three more years after that, in January 2017.⁶⁷ The Panel notes that cutoff dates are principally to establish a time limit by which a census of the affected area to identify eligible people and crops and assets can be conducted.⁶⁸ A significant lag between the census and actual acquisition could mean that the resulting changes in demographic and socioeconomic factors are not reflected in the census data. Bank practice suggests holding a census update within one year of the scheduled date of land acquisition.⁶⁹ Bank practice also suggests that compensation and resettlement not take place prematurely several years ahead of the construction phase.⁷⁰

80. It is noteworthy that over the past year, following the Request, and during the Panel's eligibility visit, Management as well as the Borrower have shown a willingness to address concerns raised by the community. During its visit, the Panel learned that, in addition to a group of mobile

⁶⁵ Management Response, p. 8, para. 16.

⁶⁶ Management Response, pp. 7-8, para. 15.

⁶⁷ Management Response, p. 5, para. 12, and p. 8, para. 18.

⁶⁸ World Bank, *Involuntary Resettlement Sourcebook – Planning and Implementation in Development Projects*, 2004 (the "Involuntary Resettlement Sourcebook"), p. 274. Available at:

<http://documents.worldbank.org/curated/en/206671468782373680/pdf/301180v110PAPE1ettlement0sourcebook.pdf>

⁶⁹ *Involuntary Resettlement Sourcebook*, p. 210.

⁷⁰ *Involuntary Resettlement Sourcebook*, p. 316.

traders, there were business owners who were affected – some temporarily, others permanently – during construction. Subsequently, Management informed the Panel that the terms of reference of the RAP Audit were expanded to include identification of mobile traders who were active in the area by the cutoff date, and business owners who were not appropriately compensated for business disruption, in an attempt to address adverse impact on their livelihoods. Management also informed the Panel of its plan to extend the timeline of the RAP Audit (attached as Annex III), which is now expected to be complete in four months. The Panel notes the importance of the RAP Audit.

F. Recommendation

81. The Panel concludes that the Requesters and the Request for Inspection meet the technical eligibility criteria set forth in the Resolution establishing the Inspection Panel and the 1999 Clarification. The Panel further notes there is a plausible causal link between the harm alleged in the Request and potential non-compliance by the Bank with its operational policies and procedures, especially related to the Bank Policies on Environmental Assessment and Involuntary Resettlement.

82. The Panel notes that the 2018 Action Plan, when fully implemented, is expected to address many of the remaining concerns of the community. Furthermore, the Panel notes that Management expanded the RAP Audit's terms of reference, and extended its timeline, to include identification of affected mobile traders and business owners in order to address any adverse impacts on their livelihoods.

83. During its visit, Requesters told the Panel they would welcome additional measures to address their concerns, especially as they relate to the restoration of livelihoods. They also expressed their support for a Panel decision to defer its recommendation in order to await the implementation of such measures.

84. In light of this, the Panel is deferring its recommendation as to whether an investigation is warranted. The Panel will reassess the situation as further developments take place and will inform the Board of its recommendation within six months.

85. If the Board of Executive Directors concurs with the foregoing, the Inspection Panel will inform the Requesters and Management accordingly.

Annex I

Request for Inspection

17/12/2018

REF: Additional Financing Transport Sector Support Project - Additional Financing (P146630)
WEBUYE- KITALE ROAD.

We would like to make a formal request to go on with the inspection. As the response from the grievances mechanism is not being clear with the concerns raised.

Our complain is being guided by The World Bank's Environmental and Social Framework (ESF), including the Environmental and Social Standard (ESS) 10 on Stakeholder Engagement and Information Disclosure . Information disclosure in a timely manner, in an accessible place, and in a form and language understandable to those affected by the project and other interested parties, motivates our action.

We believe that there has been no stakeholders meaningful consultation in a manner proportionate to the risks to and impacts on affected communities during the construction phase.

CONSTRUCTION PHASE.

The concerns are specifically engagement during the construction phase , when a lot of harm was experienced.

Right from the documents send earlier, there was no information to make meaningful, informed choices about livelihood restoration, compensation and other resettlement entitlements.

The project's Environmental Assessment had never been disclosed .

LACK OF MITIGATION MEASURES ON:-

- Disturbance to vendors- people mostly women have had their opportunities lost, affecting their livelihoods.
- Increased dust quantities and air pollution to vendors, small businesses and residents.- This was an issues of concern
- Increased dust quantities to road side foods, vegetables, fruits, meat and shop items. The effect and impact was both to sellers and buyers.
- Increase of noise pollution to the public.
- Control of effluent -
- Disruption of utility services
- Increase in organic and inorganic solid waste.
- Increased Green House Gas Emissions due to increased fossil fuel consumption.
- Easy access to school going children when the project is completed.
- Provision of roadside facilities
- Public awareness for the chemicals used and information on hazardous chemicals used.
- Compensation to loss of businesses.

UN HUMAN RIGHTS OBLIGATION RELATING TO THE ENVIRONMENT SAYS:-

- ❖ States should ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights.
- ❖ Human rights and environmental protection are interdependent. A safe, clean, healthy and sustainable environment is necessary for the full enjoyment of human rights, including the rights to life, to the highest attainable standard of physical and mental health, to an adequate standard of living.
- ❖ The human right of all persons to seek, receive and impart information includes information on environmental matters.
- ❖ Public access to environmental information enables individuals to understand how environmental harm may undermine their rights, health, and supports their exercise of other rights, including association, participation and remedy.

From: [REDACTED]

Sent: Wednesday, January 16, 2019 3:02 AM

To: Birgit Kuba <bkuba@worldbank.org>

Subject: Re: urgent request for information

[External]

CLARIFICATION

1. The construction works is on the finishing stages. What is being done is completion.
2. The flyover is located at Webuye, Bungoma county- serving as the main connection junction point for Eldoret- Bungoma – Kitale.
3. The livelihoods of local people and vendors have been affected mostly negatively. The disruption has resulted in the income loss, lost business opportunity, closed businesses, lost commodities and shop items, due to water flowing into buildings, loss of food stuffs due to dust, not able to raise fees for their children, difficult to secure bank loans,
4. The suffering is some claiming to be sickly due to dust and the impact of air pollution has a longer health impact to those affected. There was no information about the toxic chemicals, hazardous waste and dangerous materials. The erected wall has permanently divided the street into two different worlds and have to incur costs to cross. Again lack of walk ways from the road to shops makes it difficult to get assurance of accessibility of customers. Those who lost their vandalized kiosk construction materials can not recover them. There those who gave up, and out of frustrations do not want to engage in business again.
5. The discharge of grey water and sewage from the construction site used to flow to the road, commonly used by people both pedestrians and cyclists, this was harmful to health and motor cycles and bicycles.. Further flowing towards vendors displaying their goods, during the rain season. Sound pollution caused some buildings to crack and made it difficult for children in homes or schools to concentrate.
6. [REDACTED] land to be used as construction site, will have permanent land use change, yet wants it be a farmland. He claims what he was paid was little to sustain him in future, and how to reclaim the land back to farming will be beyond his income, and the agreement was not clear in assisting him, after they have left. With vendors, the disruption has not given them a clear alternative after the construction to have a proper established market. Due to the high population around the flyover, having a road side facility in the form of modern kiosks / market could have improved their opportunities. The division of the street is permanent.
7. There two types of access problem for school going children. There is a St.Claire academy preparatory school. Children to the school mostly nursery used to cross the other side, easily. Now they have to take a long route, taking more than 30 minutes to and fro. All this using a busy road, making it risk. Two children learning in public schools and the public at large , they now have to use only one crossing point taking a longer winding route to crossing from one to the other.
8. The working conditions of workers has never been human. The toilets at the construction side were poorly done, got filled and during rainy season used to overflow. This was allegedly rectified when it came to their attention that there was a complain on the project . Those spoken to claim that milk is never given to them as required, no protective cover , poor working relationships.

Will be sending pictures.

Thanks.



The
Inspection
Panel

THE WORLD BANK

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COMPLAINT (REQUEST FOR INSPECTION) FORM

To:

The Executive Secretary, The Inspection Panel, The World Bank, MSN: MC 10-1007

1818 H St., NW, Washington, DC 20433, USA. Fax: +1(202)-522-0916. Email: ipanel@worldbank.org

Section 1: Complaint

1. What harm do you believe the World Bank-financed project caused or is likely to cause to you or your community? Please describe in as much detail as possible.

[REDACTED] has observed that residents of [REDACTED] county in Kenya face risks of exposure to hazardous pollutants due to the on going construction of the Webuye- Kitale road.

The Webuye fly-over construction has compromised the community health and safety exposing vulnerable members of the public exposure to contaminated air, dust effect on animals and humans, plus social economic impact, with likely long term negative impact to those affected.

There is environmental degradation at the construction site.

Increased debris.

Increased dust quantities from [REDACTED] and air pollution from construction affecting vendors and their commodities, disrupting businesses.

Increase in noise pollution due to heavy construction equipments.

Oil spillage from construction machinery and equipments.

Disruption of normal services.

Increase in organic and inorganic solid waste generation.

2. What is the name of the World Bank project? (If known)

KISUMU- KAKAMEGA- WEBUYE- KITALE ROAD(A1), LOT3: WEBUYE- KITALE ROAD.

3. Where is the World Bank project located? (Please include country name)

Webuye – Kitale Road, Kenya

4. Do you live in the project area?

Yes

5. Have you previously reported your concerns to World Bank management? If yes, please provide the details about those communications and explain why you are not satisfied with the Bank's action in response.

No

6. If known, please list the World Bank's operational procedures you believe have not been followed.

Stakeholder Engagement and Information Disclosure. Stakeholder feedback to inform project design in the identification and mitigation of environmental and social risks and impacts. Continuous assessment of risks and impacts. Supporting active and inclusive engagement with project affected parties.

7. Do you expect any form of retaliation or threats for filing this complaint to the Inspection Panel?

YES

Section 2: Contact Information

8. Are you complainants or a representative of complainants?

Complainants: ☐ Representing a complainant or community: ☒

9. Would you like your name and contact details to be kept confidential? *(The Inspection Panel will not disclose your identities to anyone without your prior consent.)* Yes ☐ No ☐

10. Complainants' Names (Minimum two names and signatures are required):

Complainant 1	Complainant 2
Name <input type="text"/>	Name <input type="text"/>
Address <input type="text"/>	Address <input type="text"/>
Phone <input type="text"/>	Phone <input type="text"/>
Email <input type="text"/>	Email <input type="text"/>

11. We, the undersigned, request the Inspection Panel to investigate the issues described above.

Signatures *(More signatures can be sent as an attachment document):*

<input type="text"/>	<input type="text"/>
----------------------	----------------------

NOTES:

- Please attach supporting documents, if available.
- If you have any difficulty in completing the form, please contact the Inspection Panel at ipanel@worldbank.org or by phone: +1-202-458-5200.

Annex II

Management Response to Request for Inspection

**MANAGEMENT RESPONSE TO REQUEST FOR
INSPECTION PANEL REVIEW OF THE
KENYA: TRANSPORT SECTOR SUPPORT PROJECT (P124109) AND
ITS ADDITIONAL FINANCING (P146630)**

Management has reviewed the Request for Inspection of the Kenya: Transport Sector Support Project (P124109) and its Additional Financing (P146630), received by the Inspection Panel on December 17, 2018 and registered on January 17, 2019 (RQ18/08). Management has prepared the following response.

February 19, 2019

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Map

Map 1. IBRD No. 44208

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ABBREVIATIONS AND ACRONYMS

AF	Additional Financing
CESMP	Contractor's Environmental and Social Management Plan
CoC	Code of Conduct
ESIA	Environmental and Social Impact Assessment
GHG	Greenhouse gases
GRC	Grievance Redress Committee
GRM	Grievance Redress Mechanism
ICAO	International Civil Aviation Organization
IDA	International Development Association
IPN	Inspection Panel
JKIA	Jomo Kenyatta International Airport
KCAA	Kenya Civil Aviation Authority
KeNHA	Kenya National Highways Authority
Km	kilometer
LHS	Left-Hand-Side
LOS	Level of service
M	meter
MIA	Mombasa International Airport
NEMA	National Environmental Management Authority
NLC	National Land Commission
OP	Operational Policy
PAPs	Project-affected people
PDO	Project Development Objective
PPE	Personal protective equipment
RAP	Resettlement Action Plan
RE	Resident Engineer
RHS	Right-Hand-Side
SDR	Special Drawing Rights

EXECUTIVE SUMMARY

- i. ***The project.*** The Kenya Transport Sector Support Project (the project) involves rehabilitation and expansion of critical priority road and airport infrastructure as well as financing of the implementation of policy and institutional reforms and capacity building to support Kenya's long-term development strategy. The project development objectives are to: (a) increase the efficiency of road transport along the Northern Corridor and the Tanzania-Kenya-South Sudan road corridor; (b) enhance aviation safety and security to meet international standards; (c) improve the institutional arrangements and capacity in the transport sector; (d) restore the capacity of the international passenger terminal destroyed in a fire at Jomo Kenyatta International Airport; and (e) strengthen the capacity of the Kenya Aviation Authority in disaster preparedness and responsiveness at Kenyan airports.
- ii. An IDA credit in support of the project was approved on April 21, 2011 in an amount of SDR190.80 million (US\$300 million equivalent) and became effective on August 22, 2011. An Additional Financing (AF) was approved on March 26, 2014 in an amount of SDR132.60 million (US\$203.50 million equivalent) and became effective on June 20, 2014. Implementation of the project is on track and the objectives are likely to be achieved by the revised closing date of December 31, 2019. Implementation progress and achievement of project development objectives (PDOs) is rated moderately satisfactory.
- iii. ***The Kenya Transport Sector Support Project has helped to transform the transport sector as follows:*** (a) establishment and operationalization of regulatory frameworks for the construction industry, engineering profession and practice, and road safety; (b) attainment by Kenya and Jomo Kenyatta International Airport of Category I Status allowing direct flights to and from the USA, thereby boosting trade and tourism; (c) reduction in travel time along the 200km of rehabilitated road sections by approximately 40 percent; (d) improved road safety at six major junctions; and (e) capacity building for over 200 graduate engineers offered internship opportunities on the road contracts; East African School of Aviation, which has since attained accreditation by the International Civil Aviation Organization (ICAO) as a Center of Excellence among 21 such institutions in the world; and establishment of a Marine Training Institute at Kisumu.
- iv. ***The project has four components:*** Component A: Support to Kenya National Highways Authority (KeNHA) to rehabilitate and improve roads, roadside facilities, road safety and for institutional strengthening; Component B: Institutional strengthening and capacity building in the transport sector; Component C: Support to Kenya Airports Authority; and Component D: Support to Kenya Civil Aviation Authority.
- v. Activities under Component A include, among others, rehabilitation of the Kisumu - Kakamega - Kitale road section. The road works include provision of social infrastructure in selected locations, such as bus parking, markets, schools, health facilities, water supply, improving access roads to public facilities as well as enhancement of road safety through improvement of hazardous locations, traffic calming measures and pedestrian crossings.
- vi. ***The Request for Inspection.*** The construction of the Webuye interchange on the Webuye-Kitale road section (60 km) is the focus of the Request for Inspection. The Request was submitted by three members of the project-affected community ("Requesters"). They

allege that the works at the interchange have compromised community health and safety by exposing vulnerable people to the risks of dust and hazardous pollutants in the air, soil and water. The Requesters also claim that there was poor stakeholder engagement and lack of information disclosure.

- vii. ***Management Response.*** Management has taken the complaints seriously and carefully reviewed the concerns of the Requesters. Most of the issues raised in the Request are linked to construction-related impacts (among them, allegations of dust impacts, exposure to hazardous pollutants, discharge of grey water, noise pollution from construction, damage from vibrations, and problems with drainage and solid waste disposal, stakeholder engagement and information disclosure and livelihoods), which have ceased with the substantial completion of works.
- viii. ***The majority of these issues have been resolved.*** They were already known to Management and had been analyzed during project preparation in the Environmental and Social Impact Assessment and managed in line with Bank policies and due diligence procedures during implementation, including the Contractor's Environmental and Social Management Plan and the Resettlement Action Plan.
- ix. ***Stakeholders engagement was carried out during project preparation as well as implementation.*** Community meetings were held in the local language, Kiswahili, as well as English, which is accepted and understood by the people in the project area. Consultations were held in 2010 and 2013 in preparation of the RAP for the Webuye–Kitale road section, including the Webuye and Kitale interchanges, and for the ESIA in 2008 and 2014. The ESIA was cleared and disclosed at the World Bank's InfoShop on February 18, 2011 and in-country on the same date. The Resettlement Action Plan (RAP) was cleared and disclosed at both the InfoShop and in-country on February 22, 2011. In Kenya, the ESIA and RAP documents are publicly available on the website of the National Environmental Management Authority (NEMA), and in hard copy at NEMA headquarters and NEMA offices at county level, in this case, in Bungoma County. The quarterly and monthly progress reports by the supervision consultant show that local community members are consulted on issues concerning the rehabilitation of the Webuye–Kitale road.
- x. ***The rehabilitation of the Webuye–Kitale road has a grievance redress mechanism (GRM) which became effective in January 2013 and which had processed about 40 grievances.*** It was operational prior to the implementation of the RAP. Following the receipt of grievances related to construction of the Webuye interchange, a specific Grievance Redress Committee (GRC) was established in February 2018 to respond to the complaints received. The Task Team intensified supervision of the entire project with special attention to the contracts with outstanding works, including the Webuye interchange, by fielding site visits in March, May, September and November 2018.
- xi. ***Remedial action plan.*** The issues raised in the Request were also brought to the attention of KeNHA by the community at the Webuye interchange in January 2018. An agreed action plan was prepared and has been under implementation with most of actions having been completed satisfactorily. The majority of the construction-related impacts have ceased with the substantial completion of works.
- xii. ***In response to the Request for Inspection, a Bank mission met with the community and the Requesters on site during January 23-24, 2019 to discuss remaining concerns and***

how they could be addressed. Additional issues identified in the meeting were incorporated into the action plan. Management will work with KeNHA, the supervision consultant, the contractor and the community to ensure that these actions are properly implemented by March 31, 2019. The project closes on December 31, 2019, and the Bank will continue to engage with KeNHA until that time. Other demands were outside the scope of the project and hence cannot be addressed under the ongoing works at the Webuye interchange (e.g., extending the roadside drainage to Webuye town, drilling a well, provision of access slabs over culverts in locations beyond the project area, etc.); these demands have been relayed to the local authorities.

- xiii. The actions are ongoing or completed and include both temporary mitigation measures during construction and permanent interventions as part of the scheduled works. These include the following:

Construction works

- ***Provision of security lights around the interchange at night***
 - **Completed** – Contractor provided *temporary* security lights in August 2018 to improve lighting and security at the Webuye interchange location during construction; and
 - *By March 31, 2019 – Contractor will complete installation of permanent security lights in the form of street lighting and flood lights upon completion of construction works.*
- ***Completion of drainage to manage storm water near the interchange***
 - **Completed** – KeNHA constructed a significant section of drains to improve the drainage during construction.
 - *By March 31, 2019 – Contractor to complete construction of storm water drains.*
- ***Control of dust emissions through regular water sprinkling***
 - **Completed** – Contractor monitored dust emission levels and continuously watered the area, as appropriate. Slip roads have been paved and opened to traffic. No more dust emissions are expected as construction is substantially completed.
- ***Provision of access to homes / business premises (slabs across drainage)***
 - **Completed** – Contractor constructed access slabs over culverts to all homes and business premises affected by the construction. New demands from the community continue to be received beyond the scope of works and project area. These requests are being reviewed by the Resident Engineer (RE) and KeNHA on a case-by-case basis to determine those that can be accommodated.
- ***Removal of boulders to manage hygiene and sanitation issues***
 - **Completed** – Contractor removed boulders/fill material that were encouraging unhygienic toilet practices by construction workers and open defecation by local community members.

- **Preference to be given to local community members for employment**
 - *Continuous – Contractor/GRC/RE will continue to give preference for employment to local community members, subject to the availability of opportunities and required skills in masonry, plumbing, carpentry, etc.*

Pedestrian safety

- **Provision of safe pedestrian access at various points along the interchange, and installation of other safety measures**
 - **Completed** – Contractor provided temporary crossing signs and bumps during construction.
 - *By March 2019 – Before opening the overpass for traffic, KeNHA/Contractor will enable safe crossing within the existing design by providing four crossing points, two at the roundabout and two at either end of the interchange. Also, speed bumps, signage, guard rails, rumble strips and zebra crossings will be installed at these four points as speed calming measures. KeNHA has scheduled intensive and comprehensive road safety awareness campaigns before opening of the road with special attention to schools. The road will only be opened to traffic when the installation of these measures is complete.*

Mobile traders

- **Construction of toilet block/sanitary facilities at the interchange**
 - *By March 31, 2019 – KeNHA will construct a Public Toilet Block as part of its corporate social responsibility efforts. These toilets would specifically benefit the mobile traders and help eliminate unhygienic toilet practices. Construction works have started.*
- **Provision of water kiosk at the interchange**
 - *By March 31, 2019 – KeNHA will set up a water kiosk as part of its corporate social responsibility efforts provided to the community. This water kiosk would specifically benefit the mobile traders. Construction works have started.*
- **Management will work with KenHA to reassess the availability of a small plot near the interchange to establish a market place for the use of mobile traders.**

Stakeholder engagement

- **Formation and functioning of a GRC to facilitate communication between community and KeNHA**
 - *Completed – GRC/Community/RE/Contractor formed a GRC and appointed a GRC Chairperson. KeNHA assigned the RE as KeNHA's representative. The GRC has met eleven times since it was formed in February 2018.*
- **Support for continuous stakeholder engagement**
 - *Continuous – Contractor will continue to ensure that stakeholders have access to contract information and engagement with the supervision consultant through community liaison persons.*

xiv. In addition to these actions, the following measures have been agreed with KeNHA. The actions are based on the input obtained at the Webuye community meeting and from the Requesters on January 23-24, 2019.

- ***Carrying out of a Resettlement Action Plan (RAP) audit***
 - *February 28, 2019 – Management has required that a RAP audit be carried out to ensure that all project-affected people identified in the 2011 RAP have been duly compensated. The RAP audit process started on February 11, 2019.*
- ***Enhanced road safety awareness targeting schools***
 - *February 20 - March 31, 2019 –Through the supervision consultant, KeNHA will carry out a sensitization campaign on road safety, including crossing techniques; Information, Education and Communication material; and road user behavioral change. This campaign will target road users in the vicinity of the Webuye interchange, including all schools.*
- ***Repair of two structures allegedly cracked due to vibrations from construction***
 - *March 31, 2019 – Contractor will seal the identified cracks in the two houses adjacent to the construction site.*
- ***Leveling of the road reserve adjacent to the carriageway***
 - *March 31, 2019 – Contractor will level the road reserve adjacent to the carriageway to ease movement of pedestrians and mobile traders.*

I. INTRODUCTION

1. On January 17, 2019, the Inspection Panel registered a Request for Inspection IPN Request RQ18/08 (hereafter referred to as “the Request”), concerning the Kenya: Transport Sector Support Project (P124109) and its Additional Financing (P146630) financed by the International Development Association (the Bank).

2. **Structure of the text.** The document contains the following sections. Introduction (Section I); the Request for Inspection (Section II); the project background (Section III); and Management’s Response (Section IV). Annex 1 presents the Requesters’ claims, together with Management’s detailed responses, in table format. Annex 2 contains a consultation timeline; Annex 3 presents an action plan to address stakeholder concerns; Annex 4 includes drawings of the interchange layout; and Annex 5 provides relevant photographs.

II. THE REQUEST

3. The Request for Inspection was submitted by three members of the project-affected community (hereafter referred to as the “Requesters”). The Requesters have asked for confidentiality.

4. No further materials were received by Management in support of the Request.

III. PROJECT BACKGROUND

5. **The project.** An IDA credit in support of the Kenya Transport Sector Support Project (the project) was approved on April 21, 2011 in an amount of SDR190.80 million (US\$300 million equivalent, Credit No. 4926-KE), and became effective on August 22, 2011. The Additional Financing (AF) was approved on March 26, 2014 in an amount of SDR132.60 million (US\$203.50 million equivalent, Credit No. 5410-KE), and became effective on June 20, 2014. The project involves rehabilitation and expansion of critical priority road and airport infrastructure as well as financing of the implementation of policy and institutional reforms and capacity-building to support Kenya’s long-term development strategy, Vision 2030. Under-investment in infrastructure development and maintenance has been identified as one of the main contributors to the high cost of doing business in Kenya, thereby undermining competitiveness and adversely affecting trade.

6. The AF was to: (a) respond to an emergency at the Jomo Kenyatta International Airport (JKIA) due to an accidental fire on August 7, 2013 that destroyed the entire international passenger arrival terminal facilities; (b) finance increased scope and costs of the original activities to scale-up the development effectiveness of the project; and (c) cover

an unanticipated financing gap in the provision of co-financing. The IDA Credit's Closing Date has recently been extended by 12 months to December 31, 2019 to allow for completion of the activities, primarily civil works, associated resettlement action plans and other safeguard issues.

7. ***Project Development Objectives (PDOs).*** The PDOs are to: (a) increase the efficiency of road transport along the Northern Corridor and the Tanzania-Kenya-South Sudan road corridor; (b) enhance aviation safety and security to meet international standards; (c) improve the institutional arrangements and capacity in the transport sector; (d) restore the capacity of the international passenger terminal destroyed in a fire at JKIA; and (e) strengthen the capacity of KAA in disaster preparedness and responsiveness at Kenyan airports.

8. ***Project Components.*** The original project and AF consist of the following four components:

- (a) *Component A: Support to Kenya National Highways Authority (KeNHA) to rehabilitate and improve roads, roadside facilities, road safety and for institutional strengthening* (Cost \$403.63 million). It involves rehabilitating the Kisumu - Kakamega - Kitale road section (147 km, including 10 km of new second carriageway and construction of five interchanges) of the Tanzania-Kenya-Sudan road corridor; rehabilitating and widening of the Maji ya Chumvi–Bachuma Gate road section (53 km) and constructing a second carriageway on the Athi River-Machakos road section (21 km), both on the Northern Corridor; and construction of four interchanges at Nakuru-Nyahururu turnoff, Nakuru-Njoro turnoff, Mau Summit-Kisumu turnoff and Ahero-Kisii Turnoff. The road works include provision of social infrastructure in selected locations to enhance the economic status of the project host communities, such as bus parking, markets, schools, health facilities, water supply, improved access roads to public facilities, and enhancement of road safety through improvement of hazardous locations such as major junctions, traffic calming measures and pedestrian crossings.
- (b) *Component B: Institutional strengthening and capacity building in the transport sector* (US\$28.05 million). This component includes: (i) strengthening of various institutions in the transport sector through supporting the implementation of various policies and strategies, acquisition and provision of equipment, vehicles, modernization of management information systems, financial planning, contract management and related operational capacities, to enhance delivery of services; and (ii) training of sector personnel, construction of office blocks, and carrying out of feasibility and detailed engineering designs and sector studies for managing the road network. This component also supports studying of the impact of the new constitution on the responsibilities and functioning of transport sector institutions; and supporting the implementation of the integrated national transport policy.
- (c) *Component C: Support to Kenya Airports Authority (KAA)* (US\$49.44 million). The activities under this component include rehabilitating the runway, taxiways and

apron of Mombasa International Airport (MIA), and modernizing its airfield ground lighting systems; upgrading and modernizing the power supply to MIA and connecting to the Kenya Civil Aviation Authority (KCAA) facilities and equipment; provision of a new baggage-handling system at JKIA; and augmenting water supply to both the JKIA and MIA.

- (d) *Component D: Support to KCAA (US\$ Cost \$22.47 million).* The component involves: (i) enhancing aviation safety and oversight capacity; (ii) restructuring the KCAA by separating regulatory responsibilities from its service provision functions; (iii) constructing an office block to house the Authority's headquarters; (iv) upgrading the information and communication technology facilities and air navigation systems; and (v) training manpower in safety, security and oversight in the civil aviation industry.

9. ***Project implementation status.*** Implementation of the project and achievement of the PDOs are currently on track and the latter are likely to be achieved by the revised closing date of December 31, 2019. Progress towards achievement of the PDOs and Implementation Progress are rated moderately satisfactory. As of December 31, 2018, the cumulative disbursements for the original IDA Credit and AF are US\$261.3 million and US\$167.70 million equivalent, or 96 percent and 91 percent, respectively.

10. ***Major results have been achieved to-date and include:***

- (a) *Increased efficiency of road transport along the Northern Corridor and the Tanzania-Kenya-South Sudan road corridor:* Travel time along the completed target road sections has been reduced, already significantly surpassing end-project targets. Approximately 200 km of roads (out of the targeted 231 km) have been either constructed or reconstructed, and travel time has been reduced along these sections. For instance, travel time between Kisumu and Kitale by two hours (40 percent), and between Bachuma Gate and Maji ya Chumvi by one hour (50 percent), and along Kisumu-Kakamega by 55 percent. Also, six out of the target 12 interchanges to be constructed at major junctions with a history of road fatalities have been completed under the project, thus improving road safety. Social infrastructure and services (e.g., schools, markets and health facilities) have been provided to the project host communities at selected locations, and over 200 graduate engineers have been offered internship opportunities on the road contracts.
- (b) *Enhanced aviation safety and security now meets international standards:* Kenya and JKIA now meet aviation security and service level standards set by the ICAO, and the Federal Transportation Administration and Transportation Security Administration of the USA, allowing flights originating from JKIA to travel to and from the USA. Kenya Airways commenced direct flights to New York, USA on October 28, 2018. JKIA was selected as the fifth best airport in Africa in 2017, and Most Improved Airport in Africa in 2016 (Airports Council International). The East Africa School of Aviation has been accredited as one of the few centers of excellence in the world by ICAO. Purchase and installation

of air navigation equipment has contributed to enhancing safety in Kenya's air-space.

- (c) *Improved institutional arrangements and capacity in the transport sector:* The regulatory framework and performance of the transport sector has been vastly improved. Also, the Government successfully implemented all the agreed institutional and policy reforms and dated covenants under the project, which include: (i) a lead agency established for road safety, the National Transport and Safety Authority; (ii) a regulatory framework established for the construction industry, the National Construction Authority; (iii) a regulatory framework established for the engineering profession and practice, Engineers Board of Kenya; (iv) a regulatory framework for railways developed; (v) restructuring of KCAA undertaken through internal separation of the regulatory responsibilities from service provision functions; (vi) a performance monitoring framework developed for the maritime sub-sector; (vii) a Marine Training Institute established at Kisumu; and (viii) the East Africa School of Aviation accredited as one of only 21 centers of excellence in the world by ICAO.
- (d) *Positive results from reforms demonstrated by improvements in governance, delivery of services and accountability.* For example:
 - (i) *Reduction in road accidents on Kenyan roads* with the establishment of the National Transport and Safety Authority.
 - (ii) *Poor workmanship in the construction industry beginning to be sanctioned*, which was not the case before (cases taken to court, for example, when buildings and bridges under construction collapse) with the establishment of the National Construction Authority, which has created a monitoring and sanction framework in Kenya.
 - (iii) *Strengthening of the oversight and professional development of the engineering profession and practice*, with the establishment and enhancement of the capacity of the Engineers Board of Kenya).
 - (iv) *Resolution of conflict of interest scenario in the aviation sub-sector where the regulator, KCAA was housed by the operator, KAA.* A new office block for KCAA was financed under the project as part of financing reforms in the aviation sub-sector.
- (e) *Restored capacity of the international passenger terminal destroyed in a fire at JKIA.* Interim and permanent international passenger arrivals facilities were constructed at JKIA leading to rapid and full restoration of operations at the airport.
- (f) *Strengthened capacity of KAA in disaster preparedness and responsiveness at Kenyan airports.* Emergency response has been strengthened at major airports with the development of disaster response systems and purchase of firefighting equipment.

11. There have been 16 formal implementation support missions and several ad hoc missions fielded to address specific issues that arose during the implementation phase.

Construction of the Webuye interchange

12. ***The construction of the Webuye interchange on the Webuye-Kitale road section (60 km), which began in January 2017, is the focus of the Request for Inspection.*** The complaint is that the works at the interchange have compromised community health and safety by exposing vulnerable people to impacts from dust; exposure to hazardous pollutants in the air, soil and water; discharge of grey water; noise pollution from construction; damage from vibrations; problems with drainage and solid waste disposal, loss of livelihoods, etc. The Requesters also claim that there was poor stakeholder engagement and lack of information disclosure.

13. ***The interchange is part of the reconstruction of a 60-km Webuye-Kitale road section in Bungoma and Trans Nzoia counties in Western Kenya.*** The road is a section of an international corridor joining Tanzania, Kenya and South Sudan. The major works under this activity include: reconstruction of the existing 60-km bitumen-surfaced road into a single carriageway seven meters wide, with two-meter shoulders on both sides, including construction of a climbing lane (about 16 km long) and 66 bus bays; construction of two grade-separated interchanges at Webuye and Kitale, to improve safety; construction of three markets at Misikhu, Sikhendu and Kiminini, as well as one bus park and loops to service these amenities at Kamukuywa; replacement of the existing deck structure for one bridge; and strengthening works of two existing bridges. Works related to construction of the 60-km carriageway and Kitale interchange were completed and the infrastructure was handed over to KenHA in 2017. The remaining major works were at the Webuye interchange.



Photo: Existing T-Junction at Webuye before commencement of works



Photo: Existing T-Junction at Webuye before commencement of works



Photo: Same junction with the completed interchange bridge



Photo: Same junction with the completed interchange bridge

14. ***The main safeguard documents associated with the reconstruction of the Webuye-Kitale road section were prepared by KeNHA, reviewed and cleared by the Bank and disclosed by appraisal of the original Credit.*** The Environmental and Social Impact Assessment (ESIA) was cleared and disclosed at the World Bank's InfoShop on February 18, 2011 and in-country on the same date. The scope of works covered in the ESIA included the construction of the interchanges at Webuye and Kitale. The Resettlement Action Plan (RAP) was cleared and disclosed at both the World Bank's InfoShop and in-country on February 22, 2011. In Kenya, the ESIA and RAP documents are publicly available on the website of the National Environmental Management Authority (NEMA), and in hard copy at NEMA headquarters and NEMA offices at county level, in this case, in Bungoma County.

15. ***At the time of project appraisal in February 2011, the conceptual design of the interchanges at both Webuye and Kitale was trumpet-shaped and involved large footprints, which entailed relatively large areas of land.*** In most cases, such designs lead to acquisition of additional land beyond the road reserve with higher impact on project-affected people (PAPs). The ESIA for the reconstruction of the Webuye-Kitale road accounted for this design. In 2016, before commencement of construction, KeNHA, with the support of an internationally selected consultant, reviewed the designs with a view to minimizing adverse impacts. The trumpet-shaped design¹ for Kitale was retained due to

¹ The principal advantage of the trumpet design is low construction cost; it is recommended for highways and toll roads. Its major limitation, however, is that it occupies a large surface area and leaves a redundant patch of land inside the loop.

availability of land owned by Government without encumbrances and with minimal social impacts. However, for the Webuye interchange, the design was revised with the intention of confining the works within the available land to minimize land acquisition and resettlement, as well as environmental, economic, safety and social impacts, since its location was in a largely built-up commercial and residential area. The supplementary ESIA for the Webuye and Kitale interchanges was prepared in 2014, given the potentially significant footprint of the interchanges based on the proposed trumpet design. Since the design revision did not result in any substantial changes to the original design, the ESIA was not submitted to the Bank for clearance or disclosed.

16. ***Environment and Social Impact Assessment.*** The ESIA for the rehabilitation of the Webuye-Kitale road (dated 2011), which included designs of the Webuye and Kitale interchanges, was carried out in 2008. Later in 2014, KeNHA prepared a supplementary ESIA report for the interchanges at Webuye and Kitale as part of its design review² covering the whole of the Webuye-Kitale road section. The ESIA preparation process included stakeholder engagement in both 2008 and 2014. During supervision missions (recorded in Aide-Memoires in December 2015, June 2016 and December 2018), the Task Team reiterated the significance of continuous engagement and systematic documentation of the proceedings. Management acknowledges that the stakeholder engagement could have been more robust.

17. Before commencement of works, the contractor prepared the Contractor's Environmental and Social Management Plan (CESMP) which covered all contract aspects and included the linear road, workers' camps, equipment storage yard, quarries, crusher site and borrow pits. As part of the CESMP, the following plans were prepared and are under implementation: Traffic Management Plan, Occupational Health and Safety Management Plan, and Waste Management Plan. While the Task Team evaluated and affirmed that KeNHA had adequate environmental safeguards capacity to manage the potential environmental risks and impacts emanating from the project activities, it recommended additional measures to further strengthen safeguard management capacity in June 2016. Through Bank support, KeNHA has engaged four long-term consultants to complement existing in-house safeguard management capacity.

18. ***Resettlement Action Plan.*** Consultations were held in 2010 and 2013 in preparing the RAP for the Webuye-Kitale road section including the Webuye and Kitale interchanges. KeNHA has fully implemented the RAP for the Webuye-Kitale road rehabilitation involving 37 landowners, 149 households, 70 tenants and 747 roadside mobile traders. The cut-off date of the RAP for the Webuye interchange was January 27, 2011, and it involved 30 landowners, 34 permanent structures, 11 semi-permanent structures, five households and 38 tenants. The cut-off date was widely advertised at the project location through the local administration, and the survey beacons clearly showed the boundary of the road reserve. RAP implementation began in 2014. Compensation was paid out, except for one land parcel at the Webuye interchange where it is pending due to a succession and

² A design review is carried out by the supervision consultant to evaluate the original design against its requirements in order to verify the outcome of the previous design and identify any issues before commencement of the construction works.

land adjudication dispute among the land owners. KeNHA and the government are working towards resolving the dispute and compensating the affected persons. The funds are available and in an escrow account with the National Land Commission (NLC). Three markets have been constructed to accommodate the mobile traders at Sikhendu, Kiminini and Misikhu and a bus park has been built at Kamukuywa. A RAP completion report was submitted to the Bank on August 8, 2018.

19. ***The overall physical progress of the reconstruction of the Webuye-Kitale road, including the two interchanges, as of January 25, 2019 was 99.6 percent.*** The main road works from Webuye to Kitale (60 km) including the Kitale interchange and associated street lighting works and existing bridges, were completed and the infrastructure taken over by KeNHA on September 14, 2017; they are currently under a long-term, performance-based road maintenance contract. Also completed were the market stalls, loop service roads and the bus park, and arrangements are underway to hand over these facilities to the Bungoma and Trans Nzoia County Governments for their management and maintenance.

20. ***The overall progress of construction of the Webuye interchange was 98.4 percent as of January 25, 2019.*** The complete final design of the Webuye interchange was issued by the supervision consultant in September 2016 and works started in January 2017. The main tasks included: the construction of a 1.1 km overpass road and 2.2 km of slip roads on both sides of the overpass road. The bridge, retaining walls, crush barrier and slip roads have been completed except for ongoing finishing works, including: surface dressing; drainage works; enhanced road safety measures including road markings and road signs, speed bumps, guard rails and zebra crossing markings; street lighting and additional new social amenities including an ablution block (toilets) and a water kiosk. It is expected that the remaining works will be completed by end-March 2019. The road will only be opened to traffic when the installation of the safety measures is complete.

21. ***Management of environmental and social impacts related to the works.*** The contractor had opened 69 borrow pits along the road alignment and one quarry site. There has been progressive rehabilitation of the exhausted material sites, and to date, 62 borrow pits have been rehabilitated. The remaining seven pits will be restored before the end of the contract. The quarry has been operated in accordance with the approved Occupational Health and Safety Management Plan. The contractor is operating two camps, the base camp in Kitale where three expatriate workers are accommodated and a sub-camp at the Webuye interchange, used for holding equipment and a fuel station. Another three expatriate staff are also accommodated at this sub-camp. These facilities have been operated in compliance with the approved CESMP and relevant statutory licenses.

22. ***Grievance Redress Mechanism.*** There is an existing grievance redress mechanism (GRM) which became effective in January 2013 under the Webuye-Kitale road rehabilitation contract. It was operational prior to the implementation of the RAP, which began in 2014, and prior to the construction of the Webuye interchange, which began in January 2017. The GRM processed 40 grievances, mostly related to access to homes and businesses. The supervision consultant and contractor manage the GRM and the grievance log, which is being reviewed by KeNHA and the Task Team.

Webuye Interchange Action Plan (February 20, 2018)

23. ***On January 31, 2018, community complaints were raised with KeNHA at a site meeting at the Webuye interchange. These complaints were discussed on February 20, 2018, with leaders and community members and led to the development of a remedial action plan.*** The issues that were the focus of the complaints included: (a) safety at the interchange; (b) employment of locals; (c) security particularly at night due to lack of lighting; (d) disruption of business caused by diversion of traffic; (e) storm water drainage problems arising from construction works; and (f) dust pollution that negatively impacted businesses. Subsequently, KeNHA convened a meeting on February 20, 2018, attended by 36 stakeholders, ten of whom were women. The stakeholders included the residents of Webuye, local administration, leaders, business community, mobile traders, supervision consultant and the contractor.

24. ***Following receipt of these grievances, a Grievance Redress Committee (GRC) specifically for the Webuye interchange area was established in February 2018 to respond to the complaints received.*** The committee is independent and operates on a voluntary basis. Its members, who represent specific sections of the community, have taken on a liaison role in disseminating to their respective constituencies the conclusions and resolutions of the GRC. The GRC has met eleven times since it was formed in February 2018.

25. ***The action plan to address the grievances raised that was agreed upon at the February 20, 2018 meeting has been under implementation since then.*** This was confirmed by feedback from GRC members, the Webuye interchange community, KeNHA, supervision consultant, and site visits by the Task Team and Management. The Task Team, including safeguard team members, intensified supervision of the entire project with special attention to the contracts with outstanding works, including the Webuye interchange, by fielding site visits in March, May, September and November 2018, given that the credit was originally scheduled to close on December 31, 2018.

26. Management confirms that the action plan is under implementation (details in Annex 3). Construction of the toilets and a water kiosk was delayed because the community was not able to provide land as agreed at the February meeting. In January 2019, the community identified a piece of land which was inadequate to accommodate the facilities. KeNHA has agreed to accommodate the toilet block on the road reserve while the community is expected to make additional land available at this location for the construction of the septic tank and soak pit. KeNHA has commenced construction of the toilets. The storm water drainage works have been completed except where owners have not yet removed structures despite having already received compensation. Some of the drainage works are part of the final finishing works for the interchange construction and are captured in the scheduled activities of the contractor.

Additional Concerns Raised in January 2019

27. *After receiving the Request for Inspection, the Task Team met with the community and the Requesters on site during January 23-24, 2019 to discuss remaining concerns and how they could be addressed.* The team noted after consultations with the community and GRC that most of the actions in the Request for Inspection have been duly integrated in the agreed action plan which is under implementation. However, during the consultation some additional issues were identified, along with actions to address them. These include: (i) the allegation that two houses suffered cracks possibly due to the vibrations of heavy construction equipment; (ii) the need to intensify road safety awareness among school pupils and other road users; (iii) undertaking of a RAP audit to ascertain that all PAPs have been duly compensated and (iv) a request by the mobile traders to level the ground surface near the carriageway. Other demands tabled by some community members were outside the scope of the project and hence cannot be addressed under the ongoing works on the Webuye interchange. These issues include:

- Community demand for a borehole.
- Community demand to expand the drainage works for the entire Webuye town.
- Additional demands for compensation by some tenants who were already compensated.
- Demand by small business owners and residents for a single and dedicated access to their premises, which is not practical or feasible given that some of the buildings are less than one meter apart.

IV. MANAGEMENT'S RESPONSE

28. ***Management has carefully reviewed the concerns of the Requesters regarding the impacts associated with the construction of the Webuye interchange. Most of the issues raised in the Request were already known to Management*** and had been analyzed during project preparation and managed in line with Bank policies and due diligence procedures during implementation. In Management's view, most of the impacts are appropriately addressed as part of the ESIA, CESMP, and RAP. Mitigation measures for some impacts, such as dust generation, required adjustments to achieve their objectives.

29. ***The concerns expressed in the Request relate primarily to construction-related impacts, which have ceased with the substantial completion of works.*** There are some concerns that go beyond the construction phase, such as safe pedestrian crossing and road safety. The Webuye interchange GRC noted that it was aware of most of the issues raised in the Request for Inspection and that they were being addressed in the action plan agreed with the community, which is under implementation.

30. Management took the opportunity of this Request to critically review the action plan and introduce some adjustments in consultation with the Requesters and the community. The Requesters' claims, accompanied by Management's detailed responses, are provided in Annex 1. Below is a summary of the issues.

A. Environmental impact and concerns relating to community health and safety

31. ***Dust exposure.*** The contractor initially sprinkled water on the diversions up to three times per day to suppress dust emissions. This proved insufficient and in response to community complaints and feedback from a stakeholder engagement meeting, watering was scaled up to four to five times per day. The monthly progress reports show that there was continuous watering at least four times per day. No further complaints related to dust were registered, except in one area, at Dinah market, where additional watering was undertaken. With the road now fully paved, dust generation has stopped.

32. ***Alleged exposure to hazardous pollutants.*** No hazardous materials were used for the construction works. The construction materials used include: (i) cement, (ii) bitumen, (iii) prime coat; and (iv) steel. These are standard materials used during any road construction, and no chemical additives were used in the construction process. During the meeting with the Bank, the community could not expand further on the claim despite being asked. Management could find no evidence that hazardous materials or waste had been used, discharged or dumped within the Webuye interchange by the contractor.

33. ***Alleged discharge of water and sewage from the construction.*** Management was not able to find any evidence or testimonies from community members that grey water and sewage have been discharged in the interchange or on the road. The contractor engaged the services of a licensed sewage company to assist in emptying the pit latrines and septic tank from the workers' sub-camp for the interchange, in conformity with NEMA requirements. In July-August 2018, the area public health officer for Webuye West issued improvement orders to empty the pit latrines as they started filling up. Subsequently, the toilets were

emptied before any spillage occurred. Management could find no record of the discharge of any grey/black water or sewage to the outside environment.

34. **Noise pollution.** Noise from the construction machinery and equipment used at the Webuye interchange mainly occurred during the early excavation works. Noise was within the prescribed levels (75 dBA) and limited to the daytime working hours as per the Environmental Audit report of February 2018. Workers exposed to noise levels were provided with ear muffs. The contractor did not work at night.

35. **Vibrations.** Two structures with cracks were identified by the supervision consultant. Since it is difficult to establish a definitive link between the construction works and the cracks on the two structures, Management has requested KeNHA to have the cracks sealed by the contractor.



Photo: Identified house with cracks allegedly from vibration
(damage to plaster below the window line is not alleged to result from vibration).



Photo: Identified house with cracks allegedly from vibration

36. **Disruption of utility services.** A disruption occurred in November 2018, when a water pipe was cut. However, records show that service was restored within three hours. Management is not aware of other reports of disruption to services.

37. **Storm drainage and flooding.** The scope of the works for the Webuye interchange includes provision of lined drains to manage storm water and drainage at the interchange. The drainage works have yet to be completed due to continued encroachment by some structures (see below). The owners of the structures have been compensated and KeNHA has issued notifications to the respective PAPs to salvage their property and make way for works to be completed. KeNHA is working on addressing this issue in collaboration with the Bungoma County Government. The target date for completion of these works is March 31, 2019. KeNHA has committed to ensuring that the drainage will be completed prior to contract closing.



Photo: Storm drains could not be completed because of the encroachment of the two structures on the right. The owners have been duly compensated but have failed to vacate the buildings or salvage materials.

38. ***Organic and inorganic solid waste.*** There has been no evidence of improper solid waste management practices at the Webuye interchange by the contractor. The contractor has provided solid waste collection bins at the sub-camp, and housekeeping at the sub-camp is considered normal. There are significant waste management problems in the area, which are unrelated to the works at the Webuye interchange.

39. With regard to ***greenhouse gases (GHG)***, construction of grade-separated interchanges naturally improves traffic flows, reduces congestion and thus reduces GHG. It is expected that the improved traffic flow will reduce GHG emissions by approximately 25 percent.

40. ***Communicable diseases.*** Management has followed up with local public health officials to inquire if any rise in communicable diseases occurred during the construction works. Local authorities have confirmed that this was not the case.

41. ***Children's safe access to school after the completion of the interchange.*** By March 2019, KeNHA will provide four safe crossing points to facilitate pedestrian movement from one side of the road to the other (see chart below) at the Webuye interchange: two at the roundabout and two at either end of the overpass. Speed bumps, rumble strips, appropriate signage and zebra crossings will be provided at these four points as speed calming measures.

42. The request by the community for a tunnel crossing through the overpass was considered but rejected as unsafe. Such a tunnel would lead the pedestrians right into the on-coming traffic on the slip roads.

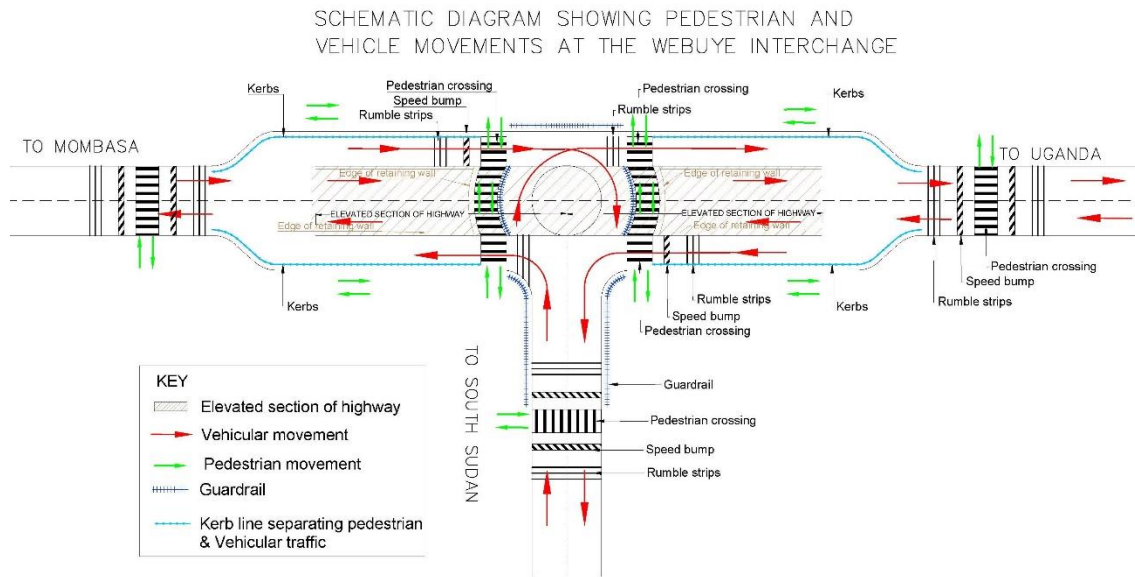


Figure: Four safe pedestrian crossing points at Webuye interchange (see also Annex 4)

43. **Channeling pedestrians, including school children, to designated safe crossing points may result in slightly longer walking distances (depending on the pedestrian's destination) but also increase safety of pedestrians and road users.** There are four schools located near the interchange that will benefit from the provision of designated safe crossing points although the children may be required to walk a slightly longer distance, not exceeding 200 m. The photograph below illustrates the distance from the school mentioned in the Request to the underpass where there is a safe crossing point provided.



Photo: The elevated highway can be crossed either at the underpass or at the beginning of the elevation. There is a distance of about 183 m between both points.

B. Livelihood impacts

44. **Customer access to shops.** The works include provision of access slabs over culverts to business and residential premises for the community living and working near the Webuye interchange. This activity is complete though new demands from the community continue to be received beyond the scope of the works and project area. These requests are being reviewed by the Resident Engineer (RE) and KeNHA on a case-by-case basis to determine those that can be accommodated.

45. Some small business owners and residents requested a single and dedicated access to their premises, which, however, is not practical or feasible in locations where buildings are less than one meter apart.



Photo: Completed access slabs to shops.

46. **Mobile traders.** Mobile traders sell their goods typically by standing in the road reserve without any permanent structure or kiosk. They are very dynamic in nature and tend to use different locations for their trade during different days and hours of the day. They also may only follow their trade occasionally or part-time. Establishing and verifying their presence at any location can therefore be very challenging. For Webuye, this was compounded by the fact that the interchange did not have a known “market day” as was the case at other locations.

47. ***The RAP of 2011 did not identify any mobile traders at the Webuye interchange prior to the cut-off date.*** Therefore, the RAP did not provide for a new market at the Webuye interchange for the mobile traders, as was the case in other locations along the Webuye-Kitale road, where the census found a significant number of mobile traders (e.g., Misikhu, Kiminini, and Sikhendu). In these locations permanent markets were provided for the mobile traders, because such informal markets existed prior to the cut-off date.

48. Management is aware that there are mobile traders operating at the interchange at present. Based on a letter dated January 31, 2019 received by KeNHA from the Secretary of the GRC, Management understands that there are 63 mobile traders who claim to frequent the Webuye interchange. Some of the mobile traders stated that they started frequenting the Webuye interchange only in recent years, mainly drawn by the business from the

contractor's work force. Others claim that they were conducting business at the site prior to the cut-off date.

49. ***Given the passage of time, it is not possible to determine the presence of individual traders at the time of the 2011 cut-off date.*** However, Management notes that there remains a possibility that mobile traders were missed at that time. A request to provide an additional market for mobile traders at the Webuye interchange was raised and discussed during the meeting of February 20, 2018 chaired by KeNHA. However, due to unavailability of land for the market in the vicinity of the Webuye interchange, it was agreed that KeNHA would instead provide an ablution block/toilet and a water kiosk to support the mobile traders.

50. The provision of toilets and a water kiosk was deemed to be the best solution in light of the lack of available land near the Webuye interchange. At that time, any available land identified for a market would have been too far away from the road reserve to be attractive to the mobile traders and therefore would not be likely to be used by them. Management will work with KeNHA to reassess the availability of a small plot near the interchange to establish a market place for the use of mobile traders.

51. Management has required that a RAP audit be carried out to verify that all PAPs have been duly compensated. If found otherwise, Management will work with KeNHA to review and identify a range of suitable mitigation measures.



Photo: Mobile traders on both sides of the street after construction of the interchange

52. ***Alleged land use change for the workers' camp.*** The Request also raises a concern regarding a change of land use at the site of the sub-camp for holding equipment. This concern is based on an erroneous assumption. Management has confirmed that the contractor entered into a commercial agreement with a community member to lease two acres of land for the sub-camp. There has been no change of the land use or zoning classification for the leased land. The contractor confirmed to the Task Team that the sub-camp site will

be restored to farmland once the lease ends on March 20, 2019, as per the CESMP. Management will ensure that KeNHA actively follows up on this to make sure that the land is fully restored upon return.

C. Inadequate working conditions

53. ***Provision of protective equipment to workers.*** The issue of inadequate Personal Protective Equipment (PPE) was reported in the monthly progress report of July 2018 and the contractor was requested by KeNHA to ensure compliance with the contractual provisions. The monthly progress report of August 2018 indicated the matter was addressed and all workers were provided with PPE. The Bank supervision missions during September and November 2018 observed that workers had been provided with appropriate PPE at the Webuye interchange (see pictures below).

54. ***Working conditions.*** The contractor's workers are paid above the national minimum wage. The workers also receive paid overtime and the contractor remits the statutory deductions to the National Health Insurance Fund and National Social Security Fund from the workers' salaries. The project workers have a right to association; some have joined a trade union while others have not. Working hours are from 7:00 am to 6:00 pm with a one-hour lunch break.

55. ***Toilets at the construction site.*** The Task Team noted that the construction sub-camp contained two pit latrines and one flush toilet. At the peak of construction there was a total of 150 workers employed on the contract working in shifts, and this number of latrines may not have been sufficient, though no spillage was reported. Currently, there are 40 workers in total working on the interchange. Management was not able to find any evidence or testimonies from community members that during the rainy season, the toilets were full and overflowing at the Webuye interchange. Based on the observation in the field, these are standard pit latrines. The contractor engaged the services of a licensed sewage company to assist in emptying the pit latrines and septic tank from the contractor's sub-camp for the interchange, in conformity with NEMA requirements. Based on the location of the toilets and their distance to the interchange, it appears highly unlikely that – even if there was an overflow – such grey water would flow to the interchange where the mobile traders are located.



Photo: Workers wearing appropriate protective gear

D. Consultation and information disclosure

56. *The consultation process for the preparation of the RAP for the Webuye–Kitale road was carried out in 2010; the final RAP was disclosed in 2011 on KeNHA’s website and in the Bank’s InfoShop. The RAP was updated in 2013 with no major changes; however, this version was not disclosed.* The consultation process (Annex 2) involved provision of information to the PAPs on their entitlements. As is required under Kenyan law, during the public hearings held by the NLC, which is responsible for all land acquisition and compensation on behalf of the Government of Kenya, each PAP was informed of his/her entitlements and given an opportunity to negotiate based on a written claim for compensation.

57. **Environmental Assessment.** The Bank reviewed and disclosed the 2011 ESIA for the whole Webuye-Kitale road, including the design of the interchanges, as noted above in paragraph 14. The supervision consultant carried out a design review exercise to evaluate the original design against its requirements to identify any issues before commencement of the construction works. The supplementary ESIA for the Webuye and Kitale interchanges was prepared in 2014, given the potentially significant footprint of the interchanges based on the proposed trumpet design. Since the design review did not result in any significant changes to the original design the ESIA, was not submitted to the Bank for clearance or disclosed.

Conclusion and Actions Going Forward

58. ***The construction of the Webuye interchange is nearing completion and most of the impacts raised in the Request have ceased with the completion of works or have been addressed through the below action plan since February 2018.*** In response to the Request for Inspection, the Bank met the Webuye community and the Requesters on January 23 and 24, 2019 to discuss additional, time-bound items, which are being addressed as part of the action plan and the finishing works. Management will work with KeNHA, the supervision consultant, the contractor and the community to ensure that implementation of the agreed action plan is expedited and completed by March 31, 2019. The project closes on December 31, 2019, and the Bank will continue to engage with KeNHA until that time.

59. The actions are ongoing or completed and include both temporary mitigation measures during construction and permanent interventions as part of the scheduled works. These include the following:

Construction works

- ***Provision of security lights around the interchange at night***
 - **Completed** – Contractor provided *temporary* security lights in August 2018 to improve lighting and security at the Webuye interchange location during construction; and
 - *By March 31, 2019 – Contractor will complete installation of permanent security lights in the form of street lighting and flood lights upon completion of construction works.*
- ***Completion of drainage to manage storm water near the interchange***
 - **Completed** – KeNHA constructed a significant section of drains to improve the drainage during construction.
 - *By March 31, 2019 – Contractor to complete construction of storm water drains.*
- ***Control of dust emissions through regular water sprinkling***
 - **Completed** – Contractor monitored dust emission levels and continuously watered the area, as appropriate. Slip roads have been paved and opened to traffic. No more dust emissions are expected as construction is substantially completed.
- ***Provision of access to homes / business premises (slabs across drainage)***
 - **Completed** – Contractor constructed access slabs over culverts to all homes and business premises affected by the construction. New demands from the community continue to be received beyond the scope of works and project area. These requests are being reviewed by the RE and KeNHA on a case-by-case basis to determine those that can be accommodated.
- ***Removal of boulders to manage hygiene and sanitation issues***

- **Completed** – Contractor removed boulders/fill material that were encouraging unhygienic toilet practices by construction workers and open defecation by local community members.
- ***Preference to be given to local community members for employment***
 - *Continuous* – Contractor/GRC/RE will continue to give preference for employment to local community members, subject to the availability of opportunities and required skills in masonry, plumbing, carpentry, etc.

Pedestrian safety

- ***Provision of safe pedestrian access at various points along the interchange, and installation of other safety measures***
 - **Completed** – Contractor provided temporary crossing signs and bumps during construction.
 - *By March 2019* – Before opening the overpass for traffic, KeNHA/Contractor will enable safe crossing within the existing design by providing four crossing points, two at the roundabout and two at either end of the interchange. Also, speed bumps, signage, guard rails, rumble strips and zebra crossings will be installed at these four points as speed calming measures. KeNHA has scheduled intensive and comprehensive road safety awareness campaigns before opening of the road with special attention to schools. The road will only be opened to traffic when the installation of these measures is complete.

Mobile traders

- ***Construction of toilet block/sanitary facilities at the interchange***
 - *By March 31, 2019* – KeNHA will construct a Public Toilet Block as part of its corporate social responsibility efforts. These toilets would specifically benefit the mobile traders and help eliminate unhygienic toilet practices. Construction works have started.
- ***Provision of water kiosk at the interchange***
 - *By March 31, 2019* - KeNHA will set up a water kiosk as part of its corporate social responsibility efforts provided to the community. This water kiosk would specifically benefit the mobile traders. Construction works have started.
- ***Management will work with KeNHA to reassess the availability of a small plot near the interchange to establish a market place for the use of mobile traders.***

Stakeholder engagement

- ***Formation and functioning of a GRC to facilitate communication between community and KeNHA***
 - **Completed** – GRC/Community/RE/Contractor formed a GRC and appointed a GRC Chairperson. KeNHA assigned the RE as KeNHA's representative. The GRC has met eleven times since it was formed in February 2018.

- ***Support for continuous stakeholder engagement***
 - *Continuous – Contractor will continue to ensure that stakeholders have access to contract information and engagement with the supervision consultant through community liaison persons.*

60. In addition to these actions, the following measures have been agreed with KeNHA. The actions are based on the input obtained at the Webuye community meeting and from the Requesters on January 23-24, 2019.

- ***Carrying out a Resettlement Action Plan (RAP) audit***
 - *February 28, 2019 – Management has required that a RAP audit be carried out to ensure that all project-affected people identified in the 2011 RAP have been duly compensated. The RAP audit process started on February 11, 2019.*
- ***Enhanced road safety awareness targeting schools***
 - *February 20 - March 31, 2019 –Through the supervision consultant, KeNHA will carry out a sensitization campaign on road safety, including crossing techniques; Information, Education and Communication material; and road user behavioral change. This campaign will target road users in the vicinity of the Webuye interchange, including all schools.*
- ***Repair of two structures allegedly cracked due to vibrations from construction***
 - *March 31, 2019 – Contractor will seal the identified cracks in the two houses adjacent to the construction site.*
- ***Leveling of the road reserve adjacent to the carriageway***
 - *March 31, 2019 – Contractor will level the road reserve adjacent to the carriageway to ease movement of pedestrians and mobile traders.*

61. Management believes that the Bank has made every effort to apply its policies and procedures and to pursue its mission statement in the context of the project. As a result, Management believes that the Requesters' rights or interests have not been, nor are likely to be, directly and adversely affected by an action or omission of the Bank as a result of a failure of the Bank to follow its operational policies and procedures with respect to the design, appraisal and/or implementation of the project.

ANNEX 1

CLAIMS AND RESPONSES

No.	Claim	Response
<i>Stakeholder engagement/Consultation/Disclosure</i>		
1.	<p>We would like to make a formal request to go on with the inspection. As the response from the grievances mechanism is not being clear with the concerns raised. Our complaint is being guided by The World Bank's Environmental and Social Framework (ESF), including the Environmental and Social Standard (ESS) 10 on Stakeholder Engagement and Information Disclosure: Information disclosure in a timely manner, in an accessible place, and in a form and language understandable to those affected by the project and other interested parties, motivates our action.</p> <p>We believe that there has been no stakeholders meaningful consultation in a manner proportionate to the risks to and impacts on affected communities during the construction phase.</p>	<p>The project was approved in 2011, and the Bank's Operational Policies for safeguards that are applicable to it are: OP4.01, Environmental Assessment; OP4.11, Physical Cultural Resources; and OP4.12, Involuntary Resettlement. The ESF only came into force for projects approved after July 1, 2018. That notwithstanding, appropriate stakeholder engagement is a requirement under both the OPs and the ESF.</p> <p>The project was assigned Environmental Assessment Category B as most of the project-financed activities were deemed to have moderate impacts.</p> <p>Stakeholder engagement was carried out during project preparation as well as implementation. For details, see Annex 2. Community meetings were held in the local language, Kiswahili, as well as English, which is generally accepted and understood by the people in the project area. Stakeholders for the ESIA consultations were invited through the provincial and local administrations as a standard practice.</p> <p>A Stakeholders' Engagement Plan was prepared to map stakeholders and set up a schedule of meetings. The quarterly and monthly progress reports prepared by the supervision consultant all state that "local community members are consulted on issues impinging on the road project, though there is room for more participatory engagement."</p> <p>An analysis of the identified stakeholder consultations in Annex 2 shows that consultations during preparation of the ESIA and RAP were at a level acceptable to the Bank. As such, the 2008 ESIA and 2011 RAP were cleared and disclosed by appraisal.</p> <p>In supervision missions (recorded in Aide Memoires from December 2015, June 2016 and December 2018), the Task Team emphasized the importance of continuous engagement and systematic recording of the proceedings. Management acknowledges that the stakeholder engagement could have been more robust.</p> <p>It should be noted that 2017 witnessed a protracted electioneering period which slowed the progress of works and limited the consultation activities; ultimately, implementation support missions were suspended from June 2017 to December 2017. However, in 2018 when the political environment stabilized, consultations as well as the Bank implementation support missions intensified, contributing to an acceleration of works at the Webuye interchange.</p> <p>Between 2013 and 2017, there were seven GRCs established along the Webuye-Kitale road to address grievances, including for the Webuye interchange. These GRCs disbanded after the land acquisition process was complete, in 2017.</p> <p>In January 2018, the community complained to KeNHA about a number of unaddressed project impacts. This community complaint led to the formation of a GRC specifically for the Webuye interchange to hear concerns raised during construction. The GRC established in</p>

No.	Claim	Response
		<p>February 2018 comprises ten members of the community, including three women. The GRC has met eleven times since it was formed in February 2018. All the formal meetings are systematically documented with minutes, attendance lists and follow-up actions, including an action plan agreed with KeNHA on February 20, 2018 to address the concerns raised by the community, which has been under implementation since then. The status of the agreed action plan and mitigation measures is presented in Annex 3. Additional consultations in January 2019 have added several items to the action plan for the Webuye interchange previously agreed in February 2018.</p> <p>The GRC maintained records of each complaint received. An analysis of the grievances revealed that a high number of complaints were resolved. The grievance log was reviewed by the Bank's Task Team during site visits. Moreover, in public meetings convened by the Bank in January 2019, the community expressed satisfaction with the GRC performance. Management considers therefore that the GRC was operating satisfactorily.</p>
2.	<p>Construction Phase. The concerns are specifically engagement during the construction phase, when a lot of harm was experienced. The construction works is on the finishing stages. What is being done is completion.</p> <p>Right from the documents sent earlier, there was no information to make meaningful, informed choices about livelihood restoration, compensation and other resettlement entitlements.</p> <p>The project's Environmental Assessment had never been disclosed.</p>	<p><i>Construction phase Engagement.</i></p> <p>Construction of the Webuye interchange began in January 2017 and is nearly complete. As noted in Item 1 above, 2017 was an election year in Kenya and disruption and insecurity resulting from political campaigning affected both the progress of works and the ability of KeNHA to conduct meaningful stakeholder engagement.</p> <p>Also, as noted above, a GRC was established in the interchange area beginning in February 2018. The Task Team has assessed the GRC as operating satisfactorily since that date.</p> <p><i>Consultation on livelihood restoration:</i> The consultation process for the preparation of the RAP for the Webuye–Kitale road was carried out in 2010; the final RAP was disclosed in 2011 on KeNHA's website and in the Bank's InfoShop. The RAP was updated in 2013 with no major changes; however, this version was not disclosed. The consultation process involved provision of information to the PAPs on their entitlements. As is required under Kenyan law, during the public hearings held by the NLC, which is responsible for all land acquisition and compensation on behalf of the Government of Kenya, each PAP was informed of his/her entitlements and given an opportunity to negotiate based on his/her written claim for compensation.</p> <p>The Bank received a RAP completion report dated July 2018, indicating the RAP was implemented successfully. This completion report is currently under review.</p> <p><i>ESIA Disclosure.</i> The ESIA for the rehabilitation of the Webuye-Kitale road (dated 2011), which included initial designs of the Webuye and Kitale interchanges, was carried out in 2008. Subsequently, in 2014, KeNHA developed a stand-alone, supplementary ESIA report for the</p>

No.	Claim	Response
		<p>interchanges at Webuye and Kitale as part of its design review³ covering the whole Webuye–Kitale road section. This involved a further consultation meeting as noted in Annex 2.</p> <p>The Bank reviewed and disclosed the 2011 ESIA for the whole Webuye–Kitale road, including the design of the interchange. The supervision consultant carried out a design review exercise to evaluate the original design against its requirements to identify any issues before commencement of the construction works. The supplementary ESIA for the Webuye and Kitale interchanges was prepared in 2014, given the potentially significant footprint of the interchanges based on the proposed trumpet design. Since the design review did not result in any significant changes to the original design the ESIA, was not submitted to the Bank for clearance or disclosed.</p> <p>In 2016, based on feedback from the community and business owners on the potential loss of land and livelihoods as well as the cost of land acquisition, KeNHA revised the interchange design from the original trumpet design to a half diamond design to reduce the footprint, and hence the impact, of the Webuye interchange. There was no subsequent revision of the disclosed ESIA at that time. During implementation, the Task Team ensured that the related impacts were duly captured in the CESMP and implemented. Implementation of the CESMP was deemed satisfactory although in January 2018, the community raised some concerns related to environmental impacts, the mitigation measures for which have been integrated in the action plan and finishing works.</p> <p>The original trumpet design for the Webuye interchange required 17.73 acres of commercial and residential land. KeNHA’s revised design in 2016 required only 2.25 acres of land, reducing the land take by 88 percent.</p> <p>The 2011 ESIA cleared by the Bank was disclosed at the InfoShop on February 18, 2011 and in-country on the same date. In-country, the ESIA dated 2011 was publicly available on the NEMA website (www.nema.go.ke). The hard copies of the ESIA are available at NEMA headquarters (Nairobi) and NEMA offices at county level, in this case, in Bungoma County. In addition, the ESIA and CESMP are available at the project site in Kitale and can be provided on request to any stakeholder.</p> <p>As noted above, in 2014, the supervision consultant carried out a design review and, in the process, carried out further consultations in view of preparing a supplementary ESIA for the Webuye and Kitale interchanges given their potentially significant footprint. The consultations were based on the original trumpet design⁴ for both interchanges, with a slip road on both sides. During the stakeholder consultations in June 2014, thirty residents/community members from Webuye</p>

³ A design review is carried out by the supervision consultant to evaluate the original design against its requirements in order to verify the outcome of the previous design and identify any issues before commencement of the construction works.

⁴ A trumpet design is a 3-leg interchange which takes the shape of a trumpet. It involves at least one loop ramp connecting traffic either entering or leaving the highway with the far lanes on the continuous highway.

No.	Claim	Response
		interchange attended, among them six women. Consultations carried out during the development of the 2014 ESIA identified potential environmental and social impacts that included: (i) loss of land and livelihoods; (ii) noise and vibrations; (iii) air pollution; (iv) impact on the physical cultural resources, i.e., graves; and (v) potential increase in prostitution activities, for all of which adequate mitigation measures were requested to be put in place. The supplementary ESIA of 2014 is available at the RE's office.
<i>Environmental Impacts</i>		
3.	The Webuye fly-over construction has compromised the community health and safety exposing vulnerable members of the public exposure to contaminated air, dust effect on animals and humans, plus social economic impact, with likely long-term negative impact to those affected.	<p>Construction of the Webuye interchange commenced in January 2017. Before commencement of works, the contractor prepared the CESMP, which was approved by the supervision consultant. The CESMP covered all project aspects, including the linear road, interchanges, workers' camps, batching plant and equipment storage yard, quarry and crusher site and borrow pits. As part of the CESMP, the following management plans were prepared and are under implementation: (i) Traffic Management Plan, (ii) Occupational Health and Safety Management Plan, and (ii) Waste Management Plan.</p> <p>Regarding dust emissions, see Item 4 below.</p> <p>The contractor maintains an accident/incident log. There has been no recorded incident/accident at the Webuye interchange involving members of the community, mobile traders or motorists related to the contractor's vehicles, equipment or operations since commencement of works. There has been one fatality on the Webuye–Kitale road contract, following a severe accident at Kiminini bridge in which an employee of the contractor died. The burial was paid for by the contractor, who is now handling the compensation process for the family.</p> <p>There have been no reported incidents of communicable diseases at the Webuye interchange as result of the contractor's activities affecting the members of the community.</p> <p>During the meetings of January 4 and January 23-24, 2019, with the community and GRC, the Public Health Officer for Webuye West, who was present, confirmed that there have been no incidents of communicable diseases related to the works at the Webuye interchange.</p> <p>Socio-economic impacts are addressed in Items 9-14 below.</p>
4.	<p>Increased dust quantities from and air pollution from construction affecting vendors and their commodities, small businesses and residents. This was an issue of concern. Increased dust quantities to road side foods, vegetables, fruits, meat and shop items. The effect and impact was both to sellers and buyers.</p> <p>The suffering is some claiming to be sickly due to dust and the impact of air pollution has a longer health impact to those affected.</p>	<p>In the period between January and August 2018, the contractor diverted traffic from the A104 (Mombasa-Malaba) road onto an 800-meter stretch of gravel-paved Right-Hand Side (RHS) slip road, to enable construction of the overpass reinforced concrete retaining wall. The contractor initially sprinkled water on the diversions up to three times a day to suppress dust emissions. The water evaporated rapidly due to high temperatures and heavy traffic, thus resulting in dust emissions in spite of the mitigation measures taken by the contractor. In January 2018, the community raised complaints that the dust emissions from Webuye interchange construction works were negatively impacting their activities. On February 20, 2018, a stakeholder engagement meeting was held with representation from the local administration, area residents, business community, mobile traders including women, KeNHA, supervision consultant and the contractor, which reached an agreement on an action plan (Annex 3) to mitigate dust emissions,</p>

No.	Claim	Response
	<p>There was no information about the toxic chemicals, hazardous waste and dangerous materials. Public awareness for the chemicals used and information on hazardous chemicals used.</p> <p>REDACTED has observed that residents of REDACTED county in Kenya face risks of exposure to hazardous pollutants due to the ongoing construction of the Webuye- Kitale road.</p>	<p>among other concerns. The watering was scaled up to 4-5 times a day to suppress dust emissions.</p> <p>The monthly progress reports show that there was continuous watering at least four times per day. No further complaints related to dust were registered until July 14, 2018 during a GRC meeting, which confirmed that the contractor had been asked to visit Dinah market, where women mobile traders place their wares on the ground, to see the impact of the dust emissions. Thereafter, the contractor increased the frequency of watering at this section, as confirmed in minutes of the July 2018 meeting.</p> <p>The Task Team has intensified monitoring of implementation of the action plan, which is ongoing. Implementation of the mitigation measures was corroborated during the meetings of January 4, 2019 and January 23-24, 2019.</p> <p>The slip roads – RHS and the Left-Hand Side (LHS) – were subsequently paved, and this significantly reduced dust emissions.</p> <p><i>The project has neither used nor discharged toxic chemicals, hazardous waste or dangerous materials.</i> The construction of the Webuye-Kitale road, and specifically the Webuye interchange, has not used hazardous chemicals that could be discharged or emitted to the environment and communities during the construction period. The construction materials used include: (i) cement, (ii) bitumen, and (iii) prime coat; and (iv) steel. These are standard materials used during any road construction, and no chemical additives were used during the construction process.</p> <p>Management could find no evidence that hazardous materials or waste had been used, discharged or dumped within the Webuye interchange by the contractor. As a general practice in road construction, prime coat (low-viscosity cutback bitumen that is applied to an absorbent surface to bind the asphalt layer with the granular base) is applied during dry weather conditions. In case of any unexpected rains, the spillover of the bitumen is minimal. It should be noted that this is a rare occurrence in road construction practice.</p> <p>During the meeting between the Bank and the community on January 23, 2019, a member of the community alleged that his cow had died in December 2018 as a result of project-related activities. This allegation did not have specifics on the cause of death, could not be confirmed by the community members, and was not reported to the local administration, GRC, supervision consultant or the police.</p>
5.	<p>There is environmental degradation at the construction site. Increased debris.</p> <p>Increase in organic and inorganic solid waste generation.</p> <p>Oil spillage from construction machinery and equipments.</p>	<p><i>Management finds no evidence of poor solid waste management (either organic or inorganic) at the Webuye interchange.</i></p> <p>During implementation supervision and ad hoc missions by the Bank, and in the monthly progress reports from KeNHA, there has been no evidence of improper practices of solid waste management at the Webuye interchange by the contractor. The contractor has provided solid waste collection bins at the sub-camp, and housekeeping at the sub-camp is considered normal. The contractor has engaged the services of a licensed waste management company to regularly collect and dispose of waste from the sub-camp.</p>

No.	Claim	Response
		<p>During the stakeholder meeting of February 2018, community members requested the contractor to remove the boulders that were placed next to the interchange at Km 0+900 and which were allowing for open defecation by people passing by the interchange since they provided a measure of privacy. This material was to be used to fill the marshy area between Km 0+800 to Km 1+025. The contractor addressed this issue by removing the boulders by the end of March 2018.</p> <p>Management notes that in an environmental audit carried out in February 2018 by the contractor as per statutory obligations, oil spills were observed at the motor vehicle workshop at the Webuye interchange, although they were not deemed to be significant. The environmental audit recommended mitigation measures to remedy the issue, and the recommendations were adopted by the contractor. The used oil was collected into drums and some was used by the contractor to apply on various road construction works, with the remaining used oil collected by licensed handlers for disposal.</p> <p>The area outside the construction perimeter at the Webuye interchange is very busy with many traders, shops and buyers frequenting the area. The area is not adequately provided with designated solid waste collection points and waste is not regularly collected by the local authorities, which makes litter a problem in these public spaces. Also, there are no public toilets available. Hence there are significant waste management problems in the area unrelated to the works at the Webuye interchange. It should be noted that Webuye town lacks adequate potable water supply.</p>
6.	Control of effluent - The discharge of grey water and sewage from the construction site used to flow to the road, commonly used by people both pedestrians and cyclists, this was harmful to health and motor cycles and bicycles. Further flowing towards vendors displaying their goods, during the rain season.	<p><i>Management finds no evidence that grey water and sewage have been discharged at the interchange or on the road.</i></p> <p>The contractor operates a base camp adjacent to the Kitale Airstrip and a sub-camp next to the Webuye interchange. The sub-camp is leased from a local person. At the Webuye sub-camp, there are two pit latrines, located approximately 100 m from the A1 road and 200 m from the A104 road, and one flush toilet. The pit latrines are used by the construction workers, while the flush toilet that is connected to the septic tank is used by management staff who are housed at the sub-camp.</p> <p>The contractor engaged the services of a licensed sewage company to assist in emptying the septic tank in conformity with NEMA requirements.</p> <p>While no discharges have been recorded, and procedures were in place to empty the septic tank and pit latrines, Management cannot completely rule out the possibility that some discharge took place at some point in time. However, given the distance to the road and specifically to the interchange it is highly unlikely that mobile traders were affected even if there was a spill. In July-August 2018, the area public health officer for Webuye West undertook a regular inspection and noted in his findings that the pit latrines used by workers were almost full; he therefore issued improvement orders. Subsequently, the toilets were emptied before any spillage occurred. Management could find no record of discharge of any grey/black water or sewage to the outside environment. This was corroborated during the meetings of January 4, 2019 and January 23-24, 2019.</p>

No.	Claim	Response
7.	<p>Increase in noise pollution due to heavy construction equipments. Sound pollution caused some buildings to crack and made it difficult for children in homes or schools to concentrate.</p>	<p><i>Management believes that implementation of the project did not result in noise pollution above acceptable levels (75 dBA as per NEMA regulations for day works) or vibrations causing harm to local structures.</i></p> <p>During the meeting with the GRC and the community on January 23, 2019, one individual came forward and said that his structure had been affected by the vibrations during the compacting works. Prior to this meeting, the individual had not reported any such impacts. Following the January 23-24, 2019 meetings, a recommendation was made to the supervision engineer to verify possible cracks in structures related to the construction works at the Webuye interchange. Two structures with cracks were identified but it is difficult to establish the link between the cracks and the construction works. This was because there is no baseline data on the condition of the structures and their structural integrity is questionable. The first structure is located 16.8m offset from the outer edge of the slip road and the second structure is located behind the first house, 25m from the outer edge of the slip road (see photographs in Annex 5). Given the difficulty of establishing a definitive link between construction vibrations and the cracks in the two structures, Management has requested KeNHA to have the cracks sealed by the contractor.</p> <p>Noise from the construction machinery and equipment used at the Webuye interchange mainly occurred during the early excavation works. Noise was within the prescribed levels (75 dBA) and limited to the daytime working hours as per the Environmental Audit report of 2018. Workers exposed to noise levels were provided with ear muffs. The contractor did not work at night/dusk, hence the residents were not exposed to noise emissions during the night.</p> <p>Unrelated to the issues of noise and vibration, in June 2018, the supervision engineer received a complaint from a resident that the contractor's excavator hit a column of the complainant's shop. The contractor was instructed to repair the structure immediately and this was resolved.</p>
8.	<p>Increased Green House Gas Emissions due to increased fossil fuel consumption.</p>	<p>Reduced greenhouse gas (GHG) emissions as indicated by the output of the HDM4 (a highway development management tool).</p> <p>Construction of grade-separated interchanges naturally improves traffic flows, reduces congestion and thus reduces GHG.</p> <p>HDM4 runs for traffic data at the Webuye interchange collected in 2011 and in 2018 have shown that:</p> <p>(Annual Emission Quantities in Tonnes)</p> <ul style="list-style-type: none"> (a) Hydrocarbon (HC) emissions have been reduced from 62.51 in 2012 to 50.65 in 2018 (19%) (b) Carbon monoxide (CO) have been reduced from 246.77 in 2012 to 178.36 in 2018 (28%) (c) Nitrous oxide (NO_x) have been reduced from 68.78 in 2012 to 62.72 in 2018 (9%) (d) Sulphur dioxide (SO₂) have been reduced from 17.21 in 2012 to 13.21 in 2018 (23%)

No.	Claim	Response
		<p>(e) Carbon dioxide (CO₂) have been reduced from 1,102.41 in 2012 to 846.45 in 2018 (23%)</p> <p>(f) Lead (Pb) have been reduced from 2.24 to in 2012 to 1.15 (49%).</p> <p>The average reduction in GHG is 25%.</p>
<i>Social/Livelihood Impacts</i>		
9.	<p>Disturbance to vendors- people mostly women have had their opportunities lost, affecting their livelihoods. The livelihoods of local people and vendors have been affected mostly negatively. The disruption has resulted in the income loss, lost business opportunity, closed businesses, lost commodities and shop items, due to water flowing into buildings, loss of food stuffs due to dust, not able to raise fees for their children, difficult to secure bank loans.</p>	<p>Resettlement Action Plan</p> <p><i>Project-affected people and structures.</i> The 2011 RAP for the Webuye-Kitale Road was developed, cleared and disclosed by the Bank and KeNHA on February 22, 2011. At the Webuye interchange site, under the original trumpet design, the RAP recorded a total of 45 structures (34 permanent structures and 11 temporary structures) and 68 affected persons (30 structure owners and 38 tenants). The RAP was updated in 2013 with no major changes.</p> <p>The 2016 design revisions led to an 88 percent reduction in land take at the Webuye interchange⁵ and hence the RAP was not revised. Instead the 2011 RAP was implemented with any land not needed for the new design simply omitted. The RAP completion report does not disaggregate the Webuye interchange data from the Webuye-Kitale road section. Given this gap in the data, Management proposes to work with KeNHA to undertake a RAP audit of the interchange, to be completed by February 28, 2019.</p> <p><i>Mobile traders.</i> In a meeting with the Task Team on January 24, 2019, the Requesters indicated that at least one mobile trader was missed during the census in 2011. In order to verify the existence of mobile traders at the Webuye interchange prior to the cut-off date in the 2011 RAP (January 27, 2011), the Task Team: reviewed the original RAP and census; reviewed photographs taken of the Webuye interchange in 2011, and a video taken in 2013; and discussed the issue with KeNHA.</p> <p>The RAP of 2011 did not capture any mobile traders at the Webuye interchange prior to the cut-off date. It is typical for mobile traders to move from one market to the next on defined market days (there is no formal market at the Webuye interchange). Given the passage of time, it is now difficult to determine which, if any, mobile traders currently on the site were there prior to the cut-off date.</p> <p>Management is aware that there are mobile traders operating at the interchange at present. Based on a letter dated January 31, 2019 received by KeNHA from the Secretary of the GRC, Management understands that there are 63 mobile traders who claim to frequent the Webuye interchange. Some of the mobile traders stated that they started frequenting the Webuye interchange only in recent years, mainly drawn by the business from the contractor's work force. Others claim that they were conducting business at the site prior to the cut-off date.</p> <p>In discussions, the Requesters pointed to a mobile trader who allegedly had been present at the Webuye interchange for 13 years without receiving compensation for disturbance.</p> <p><i>Dust impacts.</i> The Task Team met with a number of mobile traders on site who confirmed the Requesters' complaint that dust emissions</p>

⁵ Is a 4-leg interchange where two major roads intersect.

No.	Claim	Response
		<p>caused disruption to their businesses during the construction period and sought compensation for their losses.</p> <p><i>Drainage impacts.</i> During consultations for the ESIA at Webuye on June 30, 2008, the issue of poor drainage and flooding at the T-junction (now Webuye interchange) was highlighted by community members. They indicated that flooding made it difficult to access the church located near the junction and the storm water flooded their houses and structures.</p> <p>On January 24, 2019, the Task Team in a meeting with the community received reports from some business people at the interchange alleging that their businesses had suffered losses due to poor customer access and storm water run-off flowing into their premises.</p> <p>The scope of the works for the Webuye interchange includes provision of lined drains to manage storm water and drainage at the interchange. The drainage works are not yet completed due to continued encroachment by some structures. The owners of these structures have been compensated and KeNHA has issued notifications to the respective PAPs to salvage their property and make way for works to be completed. During the meetings of January 4, 23-24, 2019, the Task Team urged KeNHA and the GRC to work closely with the community and Bungoma County Government and reach out to the PAPs who are delaying the completion of the drainage works at the interchange, to enable the works to proceed. The drainage concern was one of the issues the community raised in January 2018 and its mitigation is part of the action plan of February 2018 (Annex 3). The target date for completion of these works is March 31, 2019.</p> <p>The objective of the RAP audit will be to verify that all PAPs have been duly compensated.</p>
10.	<p>Compensation to loss of businesses; Provision of roadside facilities - With vendors, the disruption has not given them a clear alternative after the construction to have a proper established market. Due to the high population around the flyover, having a road side facility in the form of modern kiosks / market could have improved their opportunities.</p> <p>The division of the street is permanent.</p>	<p>Since there is no permanent market at Webuye interchange, the mobile traders continue to sell their wares within the road reserve. As noted above, the RAP census for 2011 indicated that there were no mobile traders at the Webuye interchange before the cut-off date.</p> <p>Thus, the RAP did not provide for a new market as an entitlement for mobile traders as was the case elsewhere along the Webuye-Kitale road. For other market centers along the 60-km road stretch where a significant number of mobile traders were enumerated in the census, such as at Misikhu, Kiminini, and Sikhendu, permanent markets were provided.</p> <p>It is correct that the division of the street is permanent. The retaining wall has created a barrier on either side of the road. However, the design has provided for safe crossings at four locations to facilitate movement from one side of the road to the other (sketch provided in Annex 4).</p> <p>Before the separated grade intersection was constructed, the A1 and A104 roads intersected at right angles to form a T-Junction (see Annex 4) and traffic levels exceeded its capacity (11,921 vehicles per day). In addition, there were inadequate traffic calming measures and signage and pedestrians would cross at any point, thus highly exposing themselves and other road users to accidents.</p>

No.	Claim	Response
11.	Disruption of normal services. Disruption of utility services.	<p>A disruption to water supply occurred on November 19, 2018 at Km 1+395 when the contractor was excavating drains. Nzoia Water Services Company Limited (NZOWASCO), responsible for provision of water and sanitation services in the area, had been previously paid to relocate all water pipes around the Webuye interchange to enable drainage works to be carried out. Records show that the company was notified of the damage and the water pipe was repaired within three hours.</p> <p>Management is not aware of other reports of disruption to utility services.</p>
12.	The erected wall has permanently divided the street into two different worlds and have to incur costs to cross.	<p>It is considered good practice to include grade separation at major intersections. This is intended to ease traffic flow and improve safety. There are no costs involved for community members to cross the interchange.</p> <p>The original design in 2008 with a larger footprint than the final design was consulted upon as part of the ESIA preparation. However, the design changes made in 2016 were based on feedback received through community consultations (Annex 4 presents the interchange layout).</p> <p>Given the traffic delays and accidents witnessed at numerous intersections of international trunk roads in Kenya, a policy decision was made by KeNHA that all such intersections should be improved to grade-separated interchanges that would facilitate free movement of vehicles and reduce the number of traffic accidents at such locations. This policy decision was also supported by the provisions in the Kenya Road Design Manual. The Webuye interchange was one such intersection that was identified for immediate intervention.</p> <p>As noted in Item 10 above, capacity of the T-Junction was constrained, and this resulted in long queues up to 871m long at peak hours, with a corresponding Level of Service (LOS) of F.⁶ There were nine (9) traffic flow conflict points due to the diverging, merging and crossing movements at the T-Junction and this resulted in numerous traffic accidents, some of which were fatal. The turning radius at the T-Junction was restrictive especially for the 7-axle freight vehicles that transport goods to and from Mombasa Port to neighboring countries.</p> <p><i>Road Crossing</i></p> <p>Once the decision to separate the traffic movements was reached, the initial proposal by the design consultant was to construct a trumpet design interchange at Webuye as noted earlier. KeNHA proceeded to</p>

⁶ LOS is used to analyze roadways and intersections by categorizing traffic flow and assigning quality levels of traffic based on performance measure like vehicle speed, density, congestion, etc. The intention of LOS is to relate the traffic service quality to a given flow rate of traffic.

Level of Service A: Free-flow traffic with individual users virtually unaffected by the presence of others in the traffic stream.

Level of Service B: Stable traffic flow with a high degree of freedom to select speed and operating conditions but with some influence from other users.

Level of Service C: Restricted flow that remains stable but with significant interactions with others in the traffic stream. The general level of comfort and convenience declines noticeably at this level.

Level of Service D: High-density flow in which speed and freedom to maneuver are severely restricted and comfort and convenience have declined even though flow remains stable.

Level of Service E: Unstable flow at or near capacity levels with poor levels of comfort and convenience.

Level of Service F: Forced traffic flow in which the amount of traffic approaching a point exceeds the amount that can be served.

LOS F is characterized by stop-and-go waves, poor travel times, low comfort and convenience, and increased accident exposure.

No.	Claim	Response
	<p>Again lack of walk ways from the road to shops makes it difficult to get assurance of accessibility of customers.</p>	<p>compute the total acreage of land that would be required for construction of the interchange and the number of PAPs who would need to be compensated and found both to be significant.</p> <p>Following stakeholder feedback, complemented by good practice on the hierarchy of managing impacts to (i) Avoid; (ii) Reduce; (iii) Mitigate; and (iv) Compensate, KeNHA made the decision to revise the design to a simple half diamond interchange. The related negative impacts of the half diamond design were significantly lower compared to the trumpet design, with land acquisition reduced by 88 percent. The A104 road was elevated by construction of retaining walls whereas the A1 road remained at ground level.</p> <p>The community was consulted at the time the proposal to revise the design was made. The community accepted the proposal but requested that a pedestrian tunnel be provided through the retaining wall to provide direct access points for crossing the road.</p> <p>The following options were assessed with regard to engineering limitations and safety of road users:</p> <ol style="list-style-type: none"> 1. Introduction of box culvert crossings at mid-distances between the roundabout and the two ends of the interchange. The option of constructing a box culvert crossing at those mid-distances was discarded for the following main reasons: <ol style="list-style-type: none"> a) The distance between the reinforced concrete wall and slip roads is 1.5m. Due to this limited buffer, pedestrians would not be able to see oncoming traffic while exiting the box culvert and crossing the slip roads, thereby strongly compromising their safety. b) The width of the box culverts would attract motorists to use them as turning points, compromising road safety. Similarly, the box culverts would have minimal horizontal sight distances and such locations would transform into accident black spots. 2. Construction of tunnels under the slip roads at the mid distances. This option like the previous one was not retained for the following reasons: <ol style="list-style-type: none"> a) Additional land acquisition and displacement would be required for the inlet and outlet on both sides of the underpass tunnel. b) Management and drainage of storm water from the tunnel would constitute a major maintenance challenge. c) Security of pedestrians, especially the elderly, women and children crossing the tunnel, would be compromised. 3. Construction of pedestrian foot bridges at mid-distances. This option was not retained due to the following reasons: <ol style="list-style-type: none"> a) At mid-distances of the interchange, the average height of the overpass is 6.5m above the finished road level of the slip roads. An additional 5.4m clear height is required for use by freight trucks. This implies that the minimum pedestrian foot bridge height would be 12m. This would

No.	Claim	Response
	Those who lost their vandalized kiosk construction materials cannot recover them. There those who gave up, and out of frustrations do not want to engage in business again.	<p>entail additional land acquisition and displacement to accommodate safe space to ascend and descend on both sides of the bridge.</p> <p>It was therefore recommended that the most appropriate and cost-effective solution that would guarantee safe crossing of pedestrians was the provision of two crossing points near the roundabout; and further two crossings at the ends of the retaining walls. Facilities that would be provided to ensure safe crossings at the four locations and incorporated in the design included;</p> <ul style="list-style-type: none"> a) Pedestrian “crossing signs.” b) Zebra markings to clearly show the crossing points. c) Rumble strips and speed bumps/humps to slow traffic as motorists approach the designated crossing points. d) Channelized movements of pedestrians to the designated crossing points using guard rails. e) Speed limit signs. <p>The length of the wall from one crossing point to the other is 366m, implying that the longest walking distance is 183m. The average adult would take about two minutes to walk this distance.</p> <p>Community members will not incur any additional transport-related costs to cross the road. The design of the interchange does not inhibit anybody from crossing the road.</p> <p>The design of the slip roads has provided for guardrails to separate motorized and non-motorized traffic. There is therefore a provision for pedestrians for walking and accessing premises. Access slabs over culverts have been provided to businesses and homes. Requests for additional access slabs continue to be received, some beyond the project area. These requests are being reviewed by the Resident Engineer (RE) and KeNHA on a case-by-case basis to determine those that can be accommodated.</p> <p>Compensation was paid for loss of business as well as land. Structure owners received one-month notice to salvage their properties. The issue was not raised to the Task Team during subsequent stakeholder engagement. The grievance mechanism has not recorded any incident of vandalism of structures.</p>
13.	Easy access to school going children when the project is completed. There two types of access problem for school going children. There is a St.Claire academy preparatory school. Children to the school mostly nursery used to cross the other side, easily. Now they have to take a long route, taking more than 30 minutes to and fro. All this using a busy road, making it risk. Two children learning in public schools and the public at large, thy now	<p><i>The Webuye interchange has incorporated design features which have resulted in safer crossings for road users.</i></p> <p>Channeling pedestrians, including school children, to designated safe crossing points may result in slightly longer walking distances (depending on the pedestrian’s destination) but also increase safety of pedestrians and road users (see Annex 4) contrary to the previous scenario where pedestrians would cross at any point, thereby highly exposing themselves and other road users to accidents.</p> <p>The Task Team visited St. Claire Preparatory School and spoke to the head teacher. The school population is comprised of four teachers and 45 children. The Task Team was able to walk the distance from the school to the crossing point in approximately two minutes. Please see</p>

No.	Claim	Response
	have to use only one crossing point taking a longer winding route to crossing from one t the other.	<p>photograph in Annex 5 showing proximity of St. Claire School to the crossing point.</p> <p>It was confirmed by the head teacher that only eight pupils live across the road from the location of the school. For these pupils, the school facilitates their crossing at the designated crossing points. The head teacher further confirmed that there has been no accident/incident involving pupils and motorists at the interchange.</p> <p>There are four schools located near the interchange that will benefit from the safe design and provision of designated safe crossing points although the children may be required to walk slightly longer distances, not exceeding 200m.</p>
14.	<p>REDACTED land to be used as construction site, will have permanent land use change, yet REDACTED wants it be a farmland. He claims what he was paid was little to sustain him in future, and how to reclaim the land back to farming will be beyond his income, and the agreement was not clear in assisting him, after they have left.</p>	<p><i>Land leased by the contractor will not have its use or character permanently changed but will be restored after the end of the lease (March 20, 2019) to its original character.</i></p> <p>The Task Team confirmed that the contractor has entered into a commercial lease agreement with a community member to lease two acres of land where the contractor has set up the sub-camp for holding equipment. This lease is valid until March 20, 2019.</p> <p>There has been no change of the zoning classification for the leased plot.</p> <p>The contractor confirmed to the Task Team that the contractor will restore the sub-camp site to farmland once the contract ends, as per the CESMP. As part of decommissioning of the sub-camp, the contractor will dismantle the concrete plant, demolish the buildings and workshops, empty the latrines and septic tanks and then fill them with suitable material and remove the fuel tanks. The contractor will also remove the upper layer of compacted material, process the material underneath to loosen it and bring in additional topsoil suitable for agriculture.</p>
<i>Working Conditions</i>		
15.	<p>The working conditions of workers has never been human.</p> <p>The toilets at the construction side were poorly done, got filled and during rainy season used to over flow. This was allegedly rectified when it came to their attention that there was a complain on the project.</p> <p>Those spoken to claim that milk is never given to them as required, no protective cover, poor working relationships.</p>	<p>During the January 23–24, 2019 meetings it was confirmed that the workers are paid above the national minimum wage. The workers also receive paid overtime and the contractor remits the statutory deductions from the workers’ salaries to the National Health Insurance Fund and National Social Security Fund. Management has no information of any ongoing labor issues or complaints at the Webuye interchange works.</p> <p>The project workers have a right to association. Some of the contractor’s workers decided to join the Kenya Building, Construction Timber and Furniture Industries Employees’ Union while others did not.</p> <p>The Task Team noted that the contractor’s sub-camp has two pit latrines and one flush toilet. At the peak of construction there was a total of 150 workers employed on the contract working in shifts, and this number of latrines may not have been sufficient, though no spillage was reported. Currently, there are 40 workers in total working on the interchange. The majority of the workers lived at home and not in camp accommodations.</p> <p>At a meeting on January 23, 2019, the workers confirmed that the Contractor provides milk to workers who work at the asphalt and concrete</p>

No.	Claim	Response
		<p>plants and the laboratory. Provision of milk or food is not a contractual issue, but the specific workers requested that they be provided with milk and the contractor obliged. The provision of milk at construction sites is an old tradition based on the belief that milk can mitigate the impacts of dust on workers' health.</p> <p>The contractor also provided appropriate and adequate PPEs, i.e., air masks. Workers are provided with potable water during working hours, which is replenished regularly.</p> <p>The issue of inadequate PPE was reported in the monthly progress report of July 2018. The monthly progress report of August 2018 indicated the matter was addressed and all workers were provided with PPE. The Bank supervision missions of September as well as November-December 2018 observed that workers had been provided with appropriate PPEs at the Webuye interchange.</p> <p>Though there have been no reported cases of GBV, the Task Team and KeNHA have taken steps to mitigate the potential risks of Sexual Exploitation and Abuse by the workers against the community. The Bank approved code of conduct (CoC) was signed by all workers contracted under the Webuye interchange contract. In the monthly progress report of April 2018, the Contractor noted that all workers with contracts as well as managers had signed the CoC. In addition, the supervising consultant sociologist undertook awareness training for the workers on the provisions of the CoC.</p>

**ANNEX 2.
CONSULTATION TIMELINE**

Date	Location	No of Participants	Types of Stakeholders (if known)
Environmental and Social Impact Assessment, 2010 – Webuye Interchange			
June 26, 2008	Bungoma East (Webuye East)		Community members
June 30, 2008	Webuye Town Lugulu	15 participants (4 women) 55 participants (20 women)	National and Local Government officers, community members
July 1, 2008	Sikhendu	31 participants (10 women)	Chief and community members
July 1, 2008	Kimini	149 participants (39 women)	Community members
July 10, 2008	Bungoma North		Community members
Supplementary ESIA			
June 25, 2014	Webuye Town	30 participants (11 women)	Business people, farmers and community members
Resettlement Action Plan			
June 30, 2008	Webuye Town		Community members
November 29-30, 2010	Webuye Interchange		Community members
January 27, 2011	Webuye Interchange		Consultations for original RAP
August 22, 2013	Webuye Interchange	72 participants (25 women)	Community and PAP meeting during 2013 RAP Review
February 20, 2018	Webuye Interchange	27 Participants (10 women)	Community for RAP completion report.
Gazette Notices and Public Hearings			
October 24, 2014	Gazetted and Public Hearing	Newspaper and Bongoma county valuers office	Public hearing for land owners to claim compensation.
March 11, 2016	Gazetted and Public Hearing	Newspaper and Bongoma county valuers office	Public hearing for land owners to claim compensation.
August 6, 2016	Gazetted and Public Hearing	Newspaper and Bongoma county valuers office	Public hearing for land owners to claim compensation.

General Safety (contracted to specialized NGO)			
2017-2018	Continuous stakeholder engagement on road safety	Community members, motorcycle taxi riders, women, traders, motorists among others	
2017-2018	Continuous stakeholder engagement on HIV/AIDS awareness and prevention	Sensitization exercise involved workers and community members.	

Date	Subject	Participants	Location
Grievance Redress Meetings – Chronology			
January 31, 2018	Meeting to submit community complaint to KeNHA	Representatives of community, KeNHA and Local Administration	Webuye Interchange
February 20, 2018	Meeting to discuss complaint received in January 31, 2018	27 participants (11 women) KeNHA, Contractor, Supervision Engineer and the community	Webuye Interchange
March-December 2018	Continuous ad hoc stakeholder engagement to address emerging grievances such as access slabs over culverts, compensation for land, follow-up on actions agreed on February 20, 2018	Community, RE and GRC	
May 12, 2018	Meeting on Land Parcel number 2016/4 (unpaid PAP)	Deputy County Commissioner, PAPs, Supervision Engineer, contractor	DCC Webuye West Office
June 4, 2018	Meeting to deliberate on a petition (from the complainant) submitted to the RE on May 24, 2018.	5 participants	GRC and KeNHA
January 4, 2019	Stakeholder engagement meeting	39 (11 women) Community members, GRC, KeNHA and World Bank	Park Villa hotel, Webuye interchange
January 14, 2019	Stakeholder engagement meeting	10	Park Villa hotel, Webuye interchange Supervision engineer, Community members

Date	Subject	Participants	Location
Grievance Redress Meetings – Chronology			
January 23, 2019	Follow-on stakeholder engagement meeting	44 participants (16 women) Community members	Park Villa hotel, Webuye interchange
January 23, 2019	Follow on stakeholder meeting – Women only	23 participants (all women)	Park Villa hotel, Webuye interchange
January 24, 2019	Community walk through (looking at cracked houses, etc.)	Unknown number of participants – varied.	Webuye interchange
January 23 and 24, 2019:	Meeting to discuss issues of concern and proposed way forward	Task Team and Requesters	Park Villa Webuye Interchange

ANNEX 3
STATUS OF IMPLEMENTATION OF THE AGREED ACTION PLAN

No	Issue	Action	Responsibility	Agreed Timeline	Status
1	No security lights provided – area around the interchange is not lit during the night.	(a) Provide temporary security lights to improve lighting and security at Webuye interchange location during construction; and (b) Install permanent security lights in the form of street lighting and flood lights upon completion of construction works.	Contractor	(a) March 30, 2018	Completed
				(b) August 2018	Installation of permanent security lights is ongoing and is expected to be completed by March 31, 2019.
2	Poor drainage – flooding from storm water on certain sections near the interchange.	KeNHA to construct drains to improve the drainage.	KeNHA	March 15, 2018	Significant section of the drainage has been completed, except for the areas where a few PAPs have not relocated their structures, though they have been compensated. KeNHA, GRC and local administration will engage with structure owners to remove the structures. A meeting was held on January 14, 2019 and deadline for removal of the structures will be determined during the meeting.
		Contractor to complete construction of storm water drains.		June 30, 2018	Drains will be completed once the structures are removed and works expected to be completed by March 31, 2019.

No	Issue	Action	Responsibility	Agreed Timeline	Status
3	Inadequate pedestrian access across the retaining walls/crossing points through construction of an underground tunnel across the bridge structure.	(a) During construction: Temporary crossing signs and bumps to be provided. (b) After completion: Alternative crossing points to be provided for within the existing design to enable safe crossing. These include four crossing points, two at the roundabout and two at either end of the interchange. Also, humps and zebra crossings will be provided at the four points as speed calming measures. Request by the community for tunnel cross through the bridge was deemed unsafe.	KeNHA RE / Contractor	(a) March 15, 2018	Completed.
				(b) March 2019	Four permanent crossing points already identified, and instructions given to contractor as per attached layout drawings.
4	Support to business at the interchange.	Construction of a market at Webuye was not provided for in the contract. Moreover, there is no land near the interchange for construction of a market (see Note 1). It was agreed therefore that; (a) the contractor shall level the ground surface where the women traders placed their wares; and (b) County Government to provide alternative place for women traders away from the road reserve.	KeNHA/ RE / Contractor	(a) January 31, 2019	By January 31, 2019
			County Government of Bungoma	(b) March 30, 2019	Activity being addressed by Bungoma County Government.
5	Lack of Communication and Liaison Persons between the Community and KeNHA.	Form a GRC and appoint a GRC Chairperson. KeNHA assigned the RE as KeNHA's representative.	GRC/Community/ RE/Contractor	Feb 20, 2018	Appointments done and GRC is fully operational.
6	Dust emissions (see Note 2)	To monitor dust emission levels and continuously water as appropriate.	Contractor/RE	Continuous	Completed.

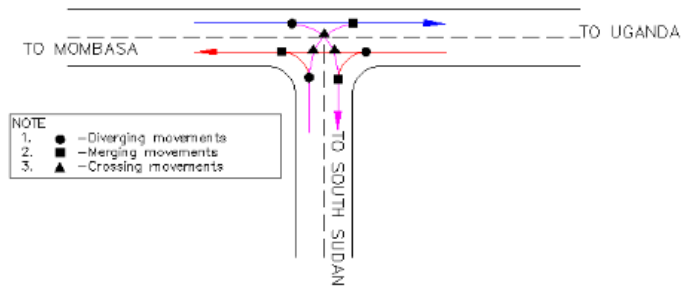
No	Issue	Action	Responsibility	Agreed Timeline	Status
					Watering done on a continuous basis.
7	Provision of access to homes / business premises.	Construction of access slabs over culverts.	Contractor/RE	March 15, 2018	Completed. Any additional requests are considered by KeNHA.
8	Poor hygiene and sanitation - Fill materials that were stored next to the interchange that was encouraging unhygienic practices was removed/ levelled.	Removal of barriers that were encouraging unhygienic toilet practices by the local community members.	Contractor	May 31, 2018	Completed.
9	Local Employment – request by local community members for employment opportunities.	Employment of local community members would be given preference.	GRC/Contractor/RE	Continuous	By December 2018, the Contractor had 207 local employees of which 58 (33%) are from Webuye town and surrounding areas (see Note 3).
10	Concerns that project would close on December 31, 2018 before Water Kiosk and Toilet Block were constructed created anxiety (see Note 4).	Reassurance that there is adequate time to complete the social amenities that were requested and agreed with the community.	RE/Social Safeguards Expert / GRC	January 14-18, 2019	As per the supervision consultant, the sociologist would hold community meetings to pass on the message of revision of the closing date (extension of time) and commitment to complete the agreed actions.
11	No toilet/sanitary facilities at the interchange.	To construct Public Toilet Block as part of corporate social responsibility provided the County Government makes available land without any encumbrances.	County Government/Community/KeNHA/RE/Contractor	Feb 28, 2019	Delayed. Land without encumbrances yet to be provided. KeNHA to liaise with Bungoma County Government on the issue of land.
12	No water available for traders at the interchange.	To set up Water Kiosk as part of community social responsibility provided the County Government makes available land without any encumbrances.	Contractor/Community/RE/KeNHA	Feb 28, 2019	Delayed. Construction works to begin once land is made available. RE already issued instruction to the contractor.
13	Continuous Stakeholder Engagement Meetings.	Stakeholders to have access to contract information and engagement with the supervision consultant through liaison persons	Community/RE/Contractor	Immediate	Done, Ongoing.

Note:

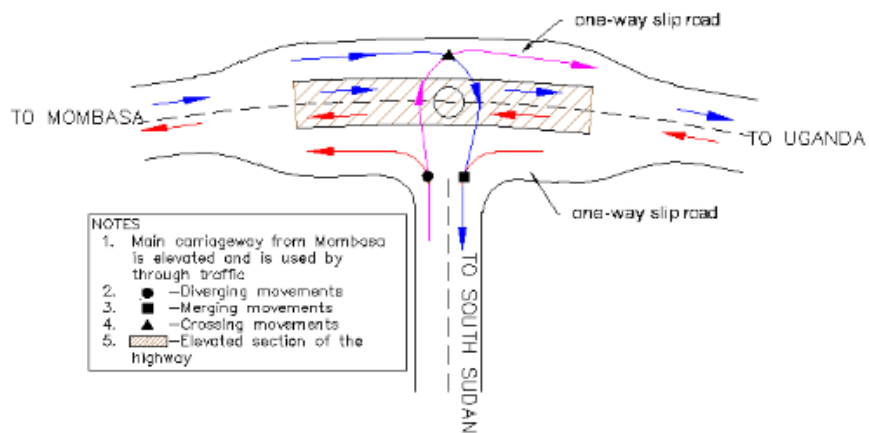
1. The request for construction of a market and/or market stalls by the traders was mainly to cater for the women traders. It is important to note that these women traders moved in to the project area after the cut-off date and hence were not included in the RAP. Other traders were captured in the RAP and market stalls were provided.
2. The project area receives heavy rains throughout the year except between December and February.
3. Construction of an interchange requires mainly skilled personnel (carpenters, masons; etc.) who could not be found in the local community.
4. This concern was raised later in June 2018 when it became apparent to the community that the project was closing in December 2018.

ANNEX 4 INTERCHANGE LAYOUT

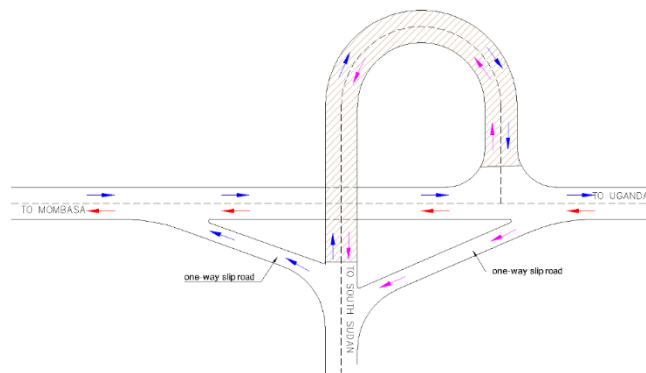
T-JUNCTION AT WEBUYE BEFORE CONSTRUCTION OF INTERCHANGE



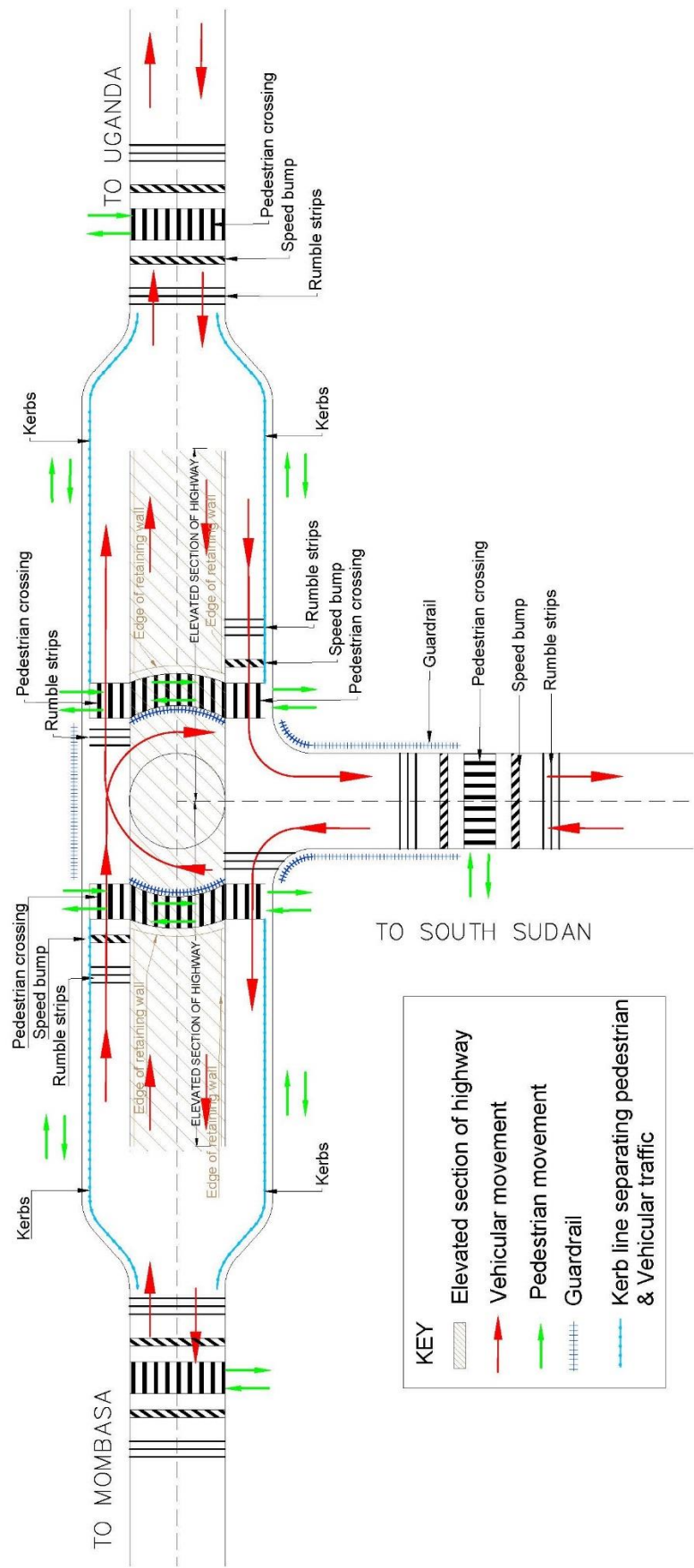
SEPARATED- GRADE INTERCHANGE AT WEBUYE



TRUMPET SHAPED INTERCHANGE



SCHEMATIC DIAGRAM SHOWING PEDESTRIAN AND VEHICLE MOVEMENTS AT THE WEBUYE INTERCHANGE



ANNEX 5 PHOTOGRAPHS

	
<p>Existing T-Junction at Webuye before commencement of works</p>	<p>Existing T-Junction at Webuye before commencement of works</p>
	
<p>Section of existing A104 road towards Eldoret (before commencement of works)</p>	<p>Section of existing A104 road towards Malaba (Border with Uganda) (before commencement of works)</p>
	
<p>Undisturbed section at Km 1+475 (before works)</p>	<p>Existing drain at Km 1+100 (before works)</p>



Water applied on certain sections of the diversion road to minimize dust

Webuye interchange – nearing completion



View of interchange bridge. In the background is A1 project road to Kitale

View of interchange bridge



View of interchange bridge from a1

RHS and section of the interchange wall

	
<p>LHS and section of the interchange wall</p>	<p>View of main road from top of the bridge</p>
 <p>PRIMED SECTION AT KM0+260—WEBUYE DIVERSION</p>	
<p>Construction of diversion before commencement of interchange works</p>	<p>View of main road and slip road from top of the bridge</p>

	
<p>Drains could not be completed to designed shape because of this encroachment of the green timber shop and the others next to it.</p>	<p>Drains could not be completed to designed shape because of this encroachment of the green timber shop and the others next to it.</p>
	
<p>Access slabs over culverts and base for light poles</p>	<p>Street lighting works – concrete foundation and ducts installed</p>
	
<p>Street lighting works</p>	<p>Temporary lighting around the interchange works</p>





Wall cracks – km 0+900 LHS slip road (offset 16.8m from outer edge of the road)



Wall cracks – km 0+900 LHS slip road (offset 16.8m from outer edge of the road)



Workers wearing personal protective equipment	
	
Access slabs to shops	Access slabs to shops

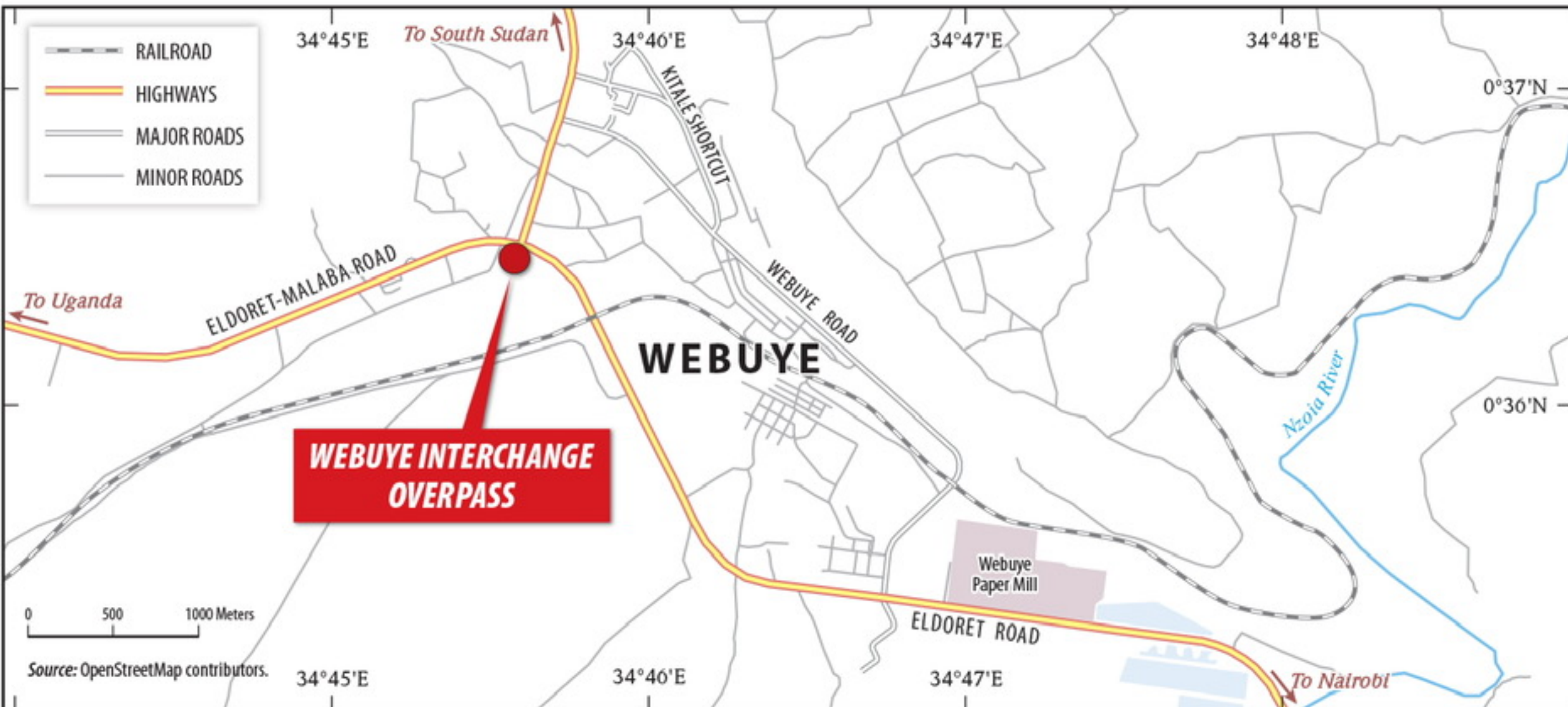
KENYA TRANSPORT SECTOR SUPPORT PROJECT AND TRANSPORT SECTOR SUPPORT PROJECT ADDITIONAL FINANCING

- PROJECT OVERPASS
- SELECTED CITIES
- ★ NATIONAL CAPITAL
- HIGHWAYS
- COUNTY BOUNDARIES
- INTERNATIONAL BOUNDARIES



IBRD 44208 | FEBRUARY 2019

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WEBUYE INTERCHANGE OVERPASS
03/07/2014



WEBUYE INTERCHANGE OVERPASS
09/18/2018



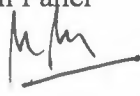
Annex III

RAP Audit Terms of Reference

OFFICE MEMORANDUM

DATE: March 21, 2019

TO: Imrana Jalal, Chairperson, IBRD/IDA Inspection Panel

FROM: Mamta Murthi, Acting Vice-President, GGIVP 

EXTENSION: 30655

SUBJECT: ***Kenya: Transport Sector Support Project (P124109) and Additional Financing (P146630)***

As per your request, please find attached the terms of reference (TORs) for the audit of the Resettlement Action Plan (RAP) that Bank Management will commission in response to complaints from affected people at the Webuye Interchange, to ensure that all affected parties were appropriately identified in the RAP and compensated per World Bank policy requirements.

We expect that the RAP audit will take four months to complete.

Terms of Reference

Resettlement Audit: Webuye Interchange

Background of the Resettlement Audit

The construction of the Webuye interchange on the Webuye-Kitale road section (60 km) began in January 2017. In response to complaints from affected people at the Webuye Interchange, World Bank Management requested a RAP Audit, to ensure that all affected parties were appropriately identified in the RAP and compensated per World Bank policy requirements.

Scope of Works

The RAP Audit will:

1. Provide a concise summary of the relevant provisions of the RAP, in particular those that pertain to the identification of and entitlements (compensation and livelihood restoration measures) for PAP's who were small business owners or mobile traders. This summary should include RAP provisions that apply at all the project sites, as well as any provisions that apply specifically to the Webuye interchange.
2. Present a detailed assessment of RAP implementation at the Webuye interchange. This should focus on describing and assessing the adequacy of the consultation process, the establishment of the cut-off date, the conduct of the census, the number and category of PAPs identified, the nature of impacts caused, the nature and timing of the provision of compensation and any livelihood restoration measures, steps taken to manage and address grievances, and related matters.
3. In connection with the assessment described in paragraph 2, above, special attention should be directed to the following questions:
 - (a) Were there mobile traders present within the project area at the time of the RAP census in 2011 who were omitted from the list of PAPs in the RAP? If so, is it possible to identify those PAPs now and to determine the nature and magnitude of the livelihood impacts they may have experienced during construction of the Webuye interchange?
 - (b) Were there small business owners identified in the census who, due to redesign of the interchange, were ultimately not required to move but who nonetheless suffered temporary or permanent economic losses because of the expectation created in the RAP that they would need to move? If so, is it possible to identify those PAPs now and to determine the nature and magnitude of the economic losses they suffered?

In addressing these questions, the consultant should confer with relevant authorities, including the Sub-County Commissioner, the chairman of the Webuye GRC, community leaders etc., and conduct such other inquiries as may be considered appropriate in accordance with a methodology to be proposed by the consultant and agreed with the World Bank.