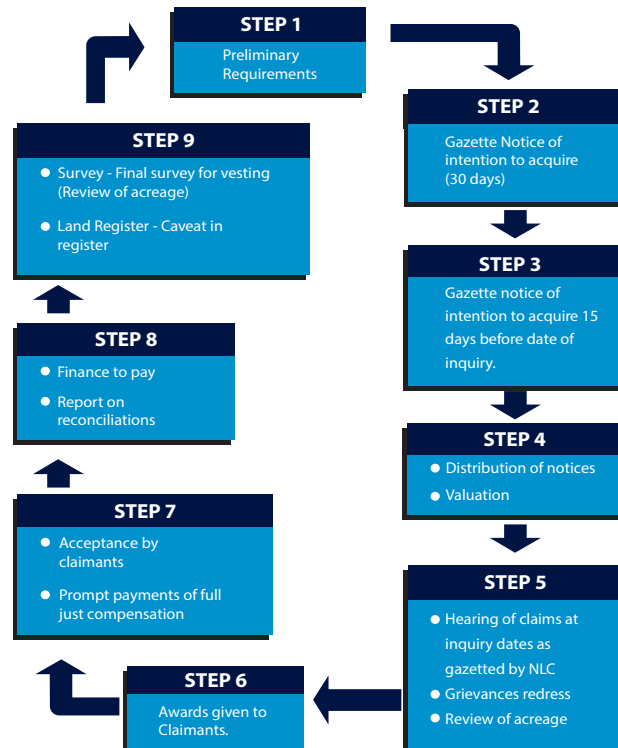


5. What are the ways of resolving the identified challenges?

- (i) Prioritization of the project
- (ii) Clear lines of communication
- (iii) Teamwork by all stakeholders
- (iv) Transparency through co-operation
- (v) Reasonable timelines, frequent up-dates and meeting briefs by stakeholders
- (vi) Clear instructions on if the compensation is land for land or land for cash



Eng Mwangi, Project Manager Kenya Water Security Climate Resilience Project, Dr Paul Daudi, Lead Expert Frontman Consultants, and Mr Sita Kangai at site visit in Chigato during NLC inspection.



River Mwache flowing towards the ocean near Chingutuni village.



Focused Group Discussion ongoing with the PAPs.



Grievance Redress Committee formation in Nunguni.



NLC Commissioners during a site visit to the project area in Kasemeni Location Kinango Sub county Kwale County.



Irene Muchoki, Dr Eng Kimalte, Eng Mwangi, Eng Kibachio, all of Kenya Water Security Climate Resilience Project and Dr Paul Daudi, During a site visit at Mazeras Field Off.



NLC inspection in Mnyenzeni area.



PAPs Apex Committee during a RAP disclosure meeting in Fulugani.



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KWSCRIP MWACHE DAM PROJECT

What is the process for land compensation?

The National Land Commission (NLC) has a sole mandate for land acquisition in Kenya. When the government acquires land for public purposes or in public interest, the land is valued and the owners are compensated and resettled. A normal process for land acquisition (without delays) takes about 3 months. There are three key stages and each stage has various processes.

About the Mwache Dam Project

The Government of Kenya through the Ministry of Water, Sanitation and Irrigation has obtained financing from the World Bank under the Kenya Water Security and Climate Resilience Project (KWSCRIP) whose development objective is to sustainably increase bulk water supply to Mombasa and Kwale counties, and increase access to water and sanitation in Kwale County. This project is intended to enhance the institutional framework and strengthen capacity for water security and climate resilience in the coastal region. Mwache Dam is the project's anchor investment and is a high-visibility investment in Kenya's water sector. The National Land Commission (NLC) is handling land acquisition on behalf of national and county governments. Frontman Consultants has been hired to oversee the resettlement of the project affected persons within the project area.

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1. What are the stages?

Stage 1: Pre-Inquiry

- (i) **Request:** The **NLC** receives a request for acquisition from the acquiring body through the respective Cabinet Secretary or County Executive member.
- (ii) **Verification meeting:** The **NLC** request for a verification meeting with the acquiring body (the body that wants the land). In this meeting, the **NLC** will require the acquiring body to provide a list of the affected parcels of land and the respective owners, title search details, cadastral maps of the affected areas, a Resettlement Action Plan (**RAP**) accompanied by a list of persons affected by the project (**PAPs**) so that their application can be put into consideration.
- (iii) **Notice of intention to inquire land:** Published in the gazette after the Commission certifies in writing that the land is required for public purposes or in public interest for a stated public purpose. Upon verification, the **NLC** publishes notice of intent and delivers a copy of the notice to the registrar and to every person who appears to have an interest in the land.

Stage 2: Inquiry

- (i) **Notice of inquiry:** The **NLC** appoints the date for the inquiry at least 30 days after publishing the notice of intention to acquire, and at least 15 days before the actual date of the inquiry. A copy of the notice is served on every person who appears to have an interest on the land.
- (ii) **Receipt of claims:** By the date of inquiry, any written claim for compensation is delivered to the **NLC** (not later than the date of inquiry). The inquiry determines who are the persons interested in the land, and receives claims from the said persons.
- (iii) **Hearing:** For the purposes of an inquiry, the **NLC** have powers of the court to summon and examine witnesses

including persons with interests to administer oaths and affirmations and to compel production and delivery of title documents to the **NLC**. This includes the public body for whose purpose the land is being acquired.

Stage 3: Post-Inquiry

- (i) **Award of compensation:** Upon conclusion of the inquiry, the **NLC** makes a separate award of compensation for every person whom the **NLC** has determined to be interested in the land. The **NLC** then serves on each person a notice of the award and offer of compensation.
- (ii) **Land in place of compensation:** The **NLC** may agree with the person who owns that land that instead of receiving an award, the person shall receive a grant of land instead not exceeding in value the amount of compensation which the **NLC** considers would have been awarded. Upon the conclusion of such an agreement that person is deemed to have received all the compensation entitled to him/ her in respect of the interest in that land.
- (iii) **Payment of compensation:** Upon acceptance of the award, the **NLC** promptly pays compensation to the interested persons. If the award is not accepted, or if there is a dispute about who is entitled to compensation, the amount of compensation, is paid into a special compensation account held by the **NLC**.
- (iv) **Payment of interest:** If the amount of any compensation is not paid, the **NLC** on or before taking possession opens an account into which the **NLC** pays interest on the amount awarded at the prevailing bank rates from the time of taking the possession until the time of payment.
- (v) **Payment of additional land:** If the acquired land is greater than the area of land in respect of which an award is made, compensation is paid for the excess area.

2. What documents are needed for payments?

- (i) A copy of the Award.
- (ii) Duly signed and well filled in Statement of Acceptance.
- (iii) Electronic Funds Transfer (EFT) Form duly signed by the payee.
- (iv) A copy of Identity Card (ID Card).
- (v) A copy of KRA PIN & account details.
- (vi) Proof of Land Ownership.
- (vii) Confirmed grant.

3. What is compensated in acquisition?

As provided for in Schedule of Compensation under The Land Acquisition Act Cap 295 (repealed), valuation includes:

- (i) The **Market Value** of land & improvements.
- (ii) Damage sustained / likely to be sustained by reason of **severance** of land.
- (iii) Damage sustained or likely to be sustained by reason of the acquisition **injuriously** affecting the other property.
- (iv) **Expenses** incurred due to change of residence, business or professional fees.
- (v) Expenses incurred due to **diminution or loss** of business.
- (vi) **15%** statutory **disturbance**.

4. What challenges are likely to delay payments to PAPs?

- (i) Succession matters/proceedings
- (ii) Titles used as Bank collaterals
- (iii) Family disputes/wrangles
- (iv) Informal subdivision/missed titles
- (v) Over-expectation by **PAPs**
- (vi) Incomplete cadastral/adjudication matters
- (vii) Missing records at Land Registry
- (viii) Compensation of Communally owned land