



FINAL REPORT

FREE PRIOR INFORMED CONSENT PROCESS & OGIEK INDIGENOUS COMMUNITY ACTION
PLAN, UASIN GISHU COUNTY

ON

The Eldoret-Iten Water Fund for Tropical Water Towers Conservation,
Kenya

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LIST OF ACRONYMS AND ABBREVIATION

CFA	Community Forest Association
CHEMUDEP	Cherangany Multipurpose Development Programme
CHEHIFO-WACA	Cherangany Hills Forest Biodiversity and Water Resources Conservation Association
CIDP	County Integrated Development Plans
EIA	Environmental Impact Assessment
EIWF	Eldoret-Iten Water Fund
ESMP	Environment and Social Management Plan
ELDOWAS	Eldoret Water and Sanitation Company Limited
FPIC	Free Prior and Informed Consent
GEF	Global Environmental Facility
GRC	Grievance Redress Committee
GRM	Grievance Redress Mechanism
IFAD	International Fund for Agricultural Development
IFIs	International Financing Institutions'
IGAs	Income Generating Activities
IPs	Indigenous Peoples
IPAP	Indigenous Peoples Action Plan
IPLCs	Indigenous Peoples and Local Communities
ITEWASCO	Iten-Tambach, Water and Sewerage Company
KAM	Kenya Association of Manufacturers
KEFRI	Kenya Forestry Research Institute
KFS	Kenya Forest Service
KWTA	Kenya Water Towers Agency
NEMA	National Environment Management Authority
NLC	National Land Commission
PELIS	Plantations Establishment & Livelihoods Improvement
PMU	Project Management Unit
PSC	Project Steering Committee
SECAP	Social, Environmental and Climate Assessment Procedures
SSC	Stakeholder Steering Committee (SSC)
TJRC	Truth Justice & Reconciliation Commission
TNC	The Nature Conservancy
WRMA	Water Resources Management Authority
WRUA	Water Resources Users Association

I. Background

a) Project Overview

1. The Eldoret-Iten Water Fund (EIWF) for Tropical Water Towers Conservation, Kenya, project is an environmental sustainability and sustainable natural resource management focused project, aspiring to enhance global environmental benefits and improve farmers' livelihoods.
2. The project is a co-financing initiative with funds from national and county¹ governments being supplemented by GEF & IFAD funding, local corporate partners², and tariffs from Water utility companies³. The project has so far received an initial co-financing commitment of up to USD 24,848,000.
3. The Project is being implemented within three of Kenya's most important water towers: Cherangany Hills, Elgeyo Hills, and the northern Mau forest block—the main sources of water for small-scale farming activities and the downstream cities of Eldoret and Iten within Uasin Gishu and Elgeyo-Marakwet County respectively.
4. The project arises as response to emerging environmental, social and economic challenges such as increasing demands for land and water, worsening land degradation and deforestation, biodiversity loss, climate change and weak institutional infrastructure which is impacting the supply of clean water to fast-growing urban centers. Farmers have encroached on cloud forest reserves and are practicing intensive grazing and farming on steep slopes, resulting in reduced soil fertility and uncontrolled soil erosion.
5. Water quality is being compromised by siltation, and competition for water and the cost of water treatment have increased. Growing demand for charcoal and lumber, and a stretched capacity of law enforcement agents to enforce forest protection, is hastening the rate of deforestation. Groundwater levels are falling faster than they can be replenished by rain.
6. The project taps from the over 20 years experiences and successes of The Nature Conservancy (TNC) in implementing water funds - innovative tools that protect water at its source. The approach entails bringing together downstream water users, infrastructure developers, and conservation partners to invest in upstream conservation initiatives that improve water quality and quantity.
7. The Eldoret-Iten Water Fund (EIWF) will address the threat of forest degradation and work with local farmers to implement sustainable soil and water conservation measures.

¹ Uasin Gishu County & Elgeyo-Marakwet

² Such as Coca Cola Company

³ The Eldoret Water and Sanitation Company and the Iten-Tambach, Water and Sewerage Company

8. The targeted EIWF project landscape is experiencing environmental pressures which is impacting agricultural, forestry, and water resources. Prolonged droughts and serious floods, contribute to food insecurity due to loss of crops and livestock, loss of biodiversity, land degradation etc.
9. Prioritized activities to be implemented under the project include: Replanting and conserving indigenous and natural forests, and improving plantation forest management; Conserving soil and water through good agricultural practices; agroforestry, and riparian and wetlands restoration; supporting alternative livelihoods for farmers such as *bee-and poultry-keeping*, digging farm ponds, and developing value chains for forest and non-forest products; promoting alternative energy sources and developing sound governance structures to ensure sustained investment in the EIWF.
10. The project presents an innovative opportunity for Government agencies, private sector, and communities to work collaboratively and in a participatory and community-driven manner to conserve biodiversity, restore landscapes and secure livelihoods.

b) Kenya's Legal & Policy Context for Citizen participation & FPIC for Indigenous Communities

Kenya's National Context

11. From its preamble, the 2010 constitution underscores the need to respect the environment as the country's collective heritage and to utilize associated resources sustainably for the well-being of the individual, the family, *communities*, and the nation. It recalls and recognizes the essential values of human rights, equality, freedom, democracy, *social justice*, and the rule of law.⁴
12. Kenya's legal and policy environment has acknowledged the glaring realities of historical and contemporary social, political, and economic marginalization suffered by indigenous peoples' communities in the Country and has entrenched corrective measures, including calling for affirmative action measures⁵ (funds, social protection, cash transfers, programmes and projects) and regional development⁶ to address social exclusion in development practice.
13. Article 260 of the 2010 constitution provides an elaborate definition of marginalized communities and groups in a way that recognizes their uniqueness and disadvantaged position. The article defines indigenous communities with regards to livelihoods practices (pastoralist,

⁴ The constitution of Kenya (2010), art. 3

⁵ The National Government Constituencies Development Fund (NG-CDF) Act, 2015 (amended in 2016); Policy on the Criteria for Identifying Marginalized Areas and Sharing of the Equalization Fund 2011 and Second Policy and Criteria For Sharing Revenue Among Marginalized Areas; Third Medium Term Plan 2018 – 2022 (MTP III)

⁶ The National policy framework for nomadic education 2010; National Policy for the Sustainable Development of Northern Kenya and other Arid Lands, 2012

hunter gatherers), lifestyles/culture, minority status and geographical remoteness, and art. 204 identifies marginalization based on regional/geographical disparities.

14. The Bill of rights art. 19(1) commits to promote social justice and the realization of the potential of all human beings. Article 21(3) directs state organs to address the needs of the vulnerable groups within society, including women, older members of the society, persons with disability, children, members of minority and marginalized communities and members of ethnic, religious, or cultural communities.
15. Article 56 provides for affirmative action to remedy the situation and grants opportunities for these groups to among other things; enable them to participate in all aspects of development and governance and access opportunities which were hitherto inaccessible to them.
16. Rights to direct representation, participation, and consultation including through Free Prior and Informed Consent (FPIC) and through legally binding agreements for marginalized communities,⁷ including rights of access to benefits such as employment, investment, corporate social responsibility, royalties from investments in their lands, are provided for.⁸
17. Respect to, protection and promotion of cultural diversity⁹ and Indigenous knowledge systems especially in the context of natural resource management including right of access to benefits associated to genetic resources are guaranteed.¹⁰
18. Art. 35 (1) of the Constitution provides the right of access to information by every citizen and the State is to publish and publicize any important information affecting the nation.
19. The Land Act (2012) calls upon the National Land Commission (NLC) to provide incentives for communities and individuals to invest in income generating natural resource management programmes, and establishment of measures to facilitate the access, use and co-management of forests, water and other resources by communities who have customary rights to these resources.¹¹
20. Under the Forest Conservation and Management Act 2016, Community forests management is predicated on the registration of a Community Forest Association (CFA)¹², which allow communities to participate in the joint management of public or community/county forests as well as access associated benefits.
21. Decision-making and resources are devolved through County governments with a corresponding emphasis on equity, efficiency, accessibility, non-discrimination, transparency,

⁷ Climate change Act 2016,

⁸ The Mining Act No. 12 of 2016; National Land Commission Act No. 5 Of 2012; Wildlife Conservation and Management Act No. 47 Of 2013

⁹ The National Policy on Culture and Heritage (2009):

¹⁰ The Kenya Constitution 2010 arts. 11; The Forest Conservation and Management Act of 2016; Climate change Act 2016; The Protection of Traditional Knowledge and Cultural Expressions Act, 2016.

¹¹ The Land Act (2012); article 19,

¹² Gok, Forest Act 2005, section 46

accountability, citizen participation¹³, and information sharing alongside a focus on basic needs.¹⁴

22. The County Governments Act No. 17 of 2012 provides that, the rights and interest of minorities and marginalized groups and communities are to be protected and integrated in county planning and development. Unity in diversity (equity and equality for all), enhanced citizen participation and affirmative action to address marginalization, poverty, and discrimination in development planning and actions are some of the primary aspirations of instituting devolution in the country. Pro-active inclusion of indigenous communities in development planning and actions is a primary duty of county governments,
23. Kenya, through the Ministry of Environment and Natural resources has developed and adopted *National guidelines for Free Prior Informed Consent (FPIC)*, primarily targeted at indigenous peoples. The guidelines aim at capturing and accounting for the experiences and the views of indigenous communities potentially affected by policies, programs, and interventions and in addition to safeguarding their interests.
24. National Environment Management Authority (NEMA) has also developed an *Environmental Impact Assessment (EIA), Review Guide For Communities*¹⁵ The guide seeks to enhance public participation in the project cycle management under the Environmental (Impact Assessment and Audit) Regulations, 2003. It targets the communities present in the project areas to assist them in reviewing and commenting on Environmental Impact Assessment (EIA) reports. It emphasizes the importance of participatory approaches in the EIA decision making process for promotion of sustainable development at County and National government levels & ensures that community needs, and aspirations are considered.

Kenya's International Commitments and Safeguards Policies of its Development Partners

25. Kenya has ratified most of the international treaties, conventions, agreements, and protocols related to human rights, environmental protection, conservation of natural resources and sustainable development; most of which have incorporated Indigenous peoples related safeguards, including FPIC.¹⁶ Article 2 (a) of the Constitution (2010), provides that every treaty and convention that Kenya is a party, forms part of the laws of Kenya.

¹³ CoK 2010, Schedule Four Part (2), 14

¹⁴ County government Act 2012

¹⁵ National Environment Management Authority, 2014 – accessible from https://www.unclearn.org/wp-content/uploads/2021/12/Session-6_pre-reading_Environmental-Impact-Assessment-EIA-%E2%80%93-Review-Guide-for-Communities.pdf

¹⁶ United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement UN Convention on Biological Diversity' (CBD) & Nagoya Protocol, Sustainable Development Goals (SDGs) The UN Guiding Principles on Business and Human Rights,

26. Kenya's national development agenda benefits from, and is informed by UN agencies¹⁷, multilateral financing Institutions¹⁸, bilateral¹⁹ development agencies and partners who have entrenched policies for the inclusion of, and safeguarding the interests and rights of marginalized or indigenous peoples in their funding modalities.
27. The safeguards policies aspire to ensure social justice for marginalized communities by articulating measures aimed at preventing, mitigating, and managing adverse impacts of development actions (do no harm) and/or pro-actively address marginalization (do good).
28. In implementing development projects supported by such partners, the country has often triggered application of the respective policies whenever communities that fit the profile stipulated in the policies are present within project areas.
29. Increasingly project specific engagement frameworks, founded on constitutional rights and International Financing Institutions' (IFIs) specific safeguards²⁰ related to social, environmental, and indigenous peoples' rights are emerging as good practice in the country.²¹
30. Consequently, the country has commissioned the elaboration of the Indigenous peoples planning instruments as operational tools for promoting the respect of rights and interests of marginalized communities, as well as for ensuring overall environmental and social sustainability of such development initiatives.
31. The EIWF project is co-financed by the Global Environment Facility (GEF) and the International Fund for Agricultural Development (IFAD). FPIC is a policy requirement for both the GEF's²² and IFAD's engagement with Indigenous peoples. The IFAD's Policies on Engagement with Indigenous Peoples including IFAD's Social, Environmental and Climate Assessment Procedures (SECAP, 2021) will particularly be relied on in ensuring safeguards for Indigenous peoples.
32. *Free, Prior and Informed Consent (FPIC)* is one of the nine Guiding Fundamental Principles which are to inform IFAD's country strategies, policy dialogue and project cycle. The other principles which remain relevant and critical in the EIWF project include cultural heritage and identity as assets, community-driven development, land, territories and resources & associated to customary laws and systems, indigenous peoples' knowledge, environmental issues, and climate change; access to markets; empowerment; and gender equality.

¹⁷ UNDP/UN-FAO, UNEP, Indigenous Peoples policies.

¹⁸ World Bank Environmental and Social Standards no. 7 on Indigenous Peoples/ Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, The Green Climate FUND Policy on Indigenous Peoples.

¹⁹ The European Union Policy on Indigenous Peoples

²⁰ The World Bank Environmental and Social Safeguards, The European Commission policy on IPs; the GCF Indigenous Peoples etc

²¹ Gok, The National Treasury. Vulnerable and Marginalized Groups Framework (VMGF). Infrastructure Finance and Public, Private Partnership (IFPP) Project Additional Finance (AF). Dec. 2016

²² Principles and Guidelines for Engagement with Indigenous Peoples - <https://www.thegef.org/what-we-do/topics/indigenous-peoples>

33. The EIWF project's commitment to FPIC resonates well with the aspirations of 'The Nature Conservancy's Human Rights Guide for Working with Indigenous Peoples and Local Communities' (IPLCs).²³ The Guide facilitates TNC's efforts towards respect and support for the rights of IPLCs; ultimately improving conservation outcomes for people and nature by integrating human rights into TNC's conservation practice. The Guide is informed by nine Principles and Safeguards related to international human rights law and standards to which TNC has committed to.²⁴ FPIC is one of the Six Modules articulated in the Guide.²⁵

c) Objectives of the FPIC, IPAP Processes and Outcomes

34. FPIC is a global best practice in ensuring that communities understand, question, shape and voluntarily consent to investments. FPIC is critical in efforts towards protection and respect of the rights of affected community members, as well as to the success of the project.
35. The FPIC principles aims to facilitate the participation of indigenous peoples' communities in determining priorities and strategies for their own development and integrates measures to (a) avoid potentially, adverse effects on the indigenous peoples' communities; or (b) when avoidance is not feasible, minimize, mitigate, or compensate for such effects.
36. The FPIC process ensures that Indigenous communities are informed about, and comprehend the full range (short, medium, and long-term) of social and environmental impacts – positive and negative – that can result from the proposed project.
37. FPIC ensures that IPs understand their rights to self-determined development and that their aspirations are considered in project planning so that they have ownership of and participate fully in decisions about development programs and initiatives undertaken in their localities.
38. Overall, the Indigenous Peoples Action Plan (IPAP) articulates measures that aim to ensure that the IPs receive social and economic benefits that are fair, equitable & culturally appropriate, support for mitigation measures on potential negative impacts arising from the project so as ensure the project has the broad on-going support of IPs, with their voices heard and accounted for. The specific objectives include:
- Identify/harvest and share with project partners any concerns that IPs have with regards to potential impacts for redress, facilitate building of trust, and realization of mutual understanding and respect between project partners, Indigenous Peoples, and other stakeholders.
 - To give room for traditional knowledge, value systems & practices to inform the design, implementation, and impacts mitigation strategies; & ensure respect and support for the

²³ https://www.nature.org/content/dam/tnc/nature/en/documents/TNC_IPs_LCs_TraditionalKnowledge.pdf

²⁴ Free Choice and Self-Determination, Prior Engagement and Collaborative Relationships, Informed Decision-Making; Right to Withhold Consent; Meaningful Consultation; Equity; Inclusion; Accountability; Overarching Good Faith

²⁵ Learning & Early Discussions; Free, Prior & Informed Consent (FPIC); Conflict Resolution; Implementation; Documentation; Monitoring, Evaluation & Adaptation

IPs' traditional social organizations, cultural heritage, traditional political and community organizations.

- To ensure allocation of appropriate *budgetary resources & technical assistance* for the IPAP implementation, establishment of an *accountability mechanism* to ensure the planned benefits of the project are received by IPs and provide an effective mechanism for *monitoring implementation* of the aspirations of the IPAP. This includes agreement on a mechanism to resolve disputes or grievances in order to proactively address the likelihood that differences of opinion will arise.

II. Key Elements of the Action Plan

a) Consultation and FPIC processes with Indigenous Peoples within the Project Area

39. Through the EIWF project feasibility studies, the project had identified and acknowledged the presence of Ogiek Indigenous peoples within the project area of Usasin Ngishu County.
40. The EIWF Project implementing partners have undertaken several community engagements exercises to familiarize with the project's ground realities and to harvest community insights and concerns to help shape the design and implementation of the project.
41. A field visit was undertaken to Moiben Catchment on January 24th -26th 2020.²⁶ In addition, a project stakeholders meeting was held between February 15th – 19th 2020 which involved a visit and engagement with the Upper Sosiani Water Resources Association (WRUA) watershed, along river Sosian and the National Bamboo Demo Site supported by the Kenya Water Towers Agency.²⁷
42. A stakeholder assessment and engagement processes has been undertaken during project preparation phase. A stakeholder Steering Committee (SSC) has been formed, comprising 12 representatives drawn from various institutions operating across levels. Indigenous Peoples are represented in the SSC.
43. The project & its stakeholders also acknowledged the historical negative experiences of Indigenous peoples with respect to their role in forest conservation and general development practice.
44. Consultations were also undertaken with national government agencies²⁸ to explore their role in the EIWF project and the place of Indigenous Communities present in the project area. The stakeholders shared their reflections on how indigenous communities will be engaged and facilitated to benefit from project.

²⁶ The visit entailed convening meetings at Kaptalamwa Wetland, Kerrer forest block in the Tenderwa area, Kimnai and Yemit areas and Cheptongei area of the Moibem river

²⁷ The EIWF Project Stakeholder meeting was held at Kaptagat Hotel

²⁸ A focused Group Discussion attended by the KWTA regional coordinator and 2 officers, and KFS officer held at Sirikiwa Hotel, Eldoret on December 1st, 2023

45. Under Activity 3.1.1.4 of the EIWF project document, commitment is made to proactively promote Indigenous communities' participation through the Free Prior Informed Consent (FPIC) process and the participatory development of an Indigenous Peoples Action Plan (IPAP) to facilitate access to project benefits as well as to respond to their interests and concerns.
46. A Free Prior Informed Consent (FPIC) consultation process with the Ogiek indigenous community was undertaken on 30th November 2022.²⁹ The FPIC sessions were attended by 25 representatives of Ogiek Indigenous community, representatives of the EIWF project Stakeholders Steering Committee (SSC) and facilitated by the IFAD's consultant on the FPIC process (See Annex I: List of participants).
47. Engagement with Indigenous communities in the project site will continue in planning conservation activities, benefits sharing and monitoring, and overall implementation of the indigenous peoples' action plan in the context of EIWF project.

b) Brief profile of the Ogiek Indigenous community,

48. The Ogiek are an indigenous forest peoples in East Africa. Historically, the Ogiek, a forest-dwelling community, practiced subsistence hunting of wild game and gathering fruits and honey with a growing integration with livestock keeping and peasant farming. The name Ogiek is derived from the phrase *Kotab sogot* - House of the leaves.
49. The Ogiek were widely dispersed across forest landscapes in the country. The scattering reduced them into small defenseless groups prone to attack by other stronger and close-knit ethnic groups. Given their minority status and scattered settlement, the Ogiek were not accounted for in the creation of tribal reserves by the British colonial government in Kenya. Forestlands (Ogiek's ancestral homes) were deemed and declared crown land and thereafter gazetted as public forest.
50. Among the Ogiek, decision-making was organised around clan leadership headed by council of elders whose mandate was to promote and safeguard community's welfare, sustainable land and natural resources use, resolve conflict, promote security and peace. Strong interconnectedness between the individual, the community, and the environment. informed the community's value systems, norms and practices which permeated the community's social, economic political, and religious spheres. Plants and animals play symbolic and sacred roles in the cultural evolution of these societies, providing a solid foundation for nature conservation.
51. The Ogiek were also historically ascribed derogatory and demeaning labels such as *Torobbo*, *Dorobo*, *Ndorobo* or *Wandorobo*, *Iltorrobo* by their Waswahili and Maasai neighbors. The consequence of these labels was that their traditional livelihoods practices were demeaned, were declared landless and trespassers on their own ancestral lands.

²⁹ Meeting Exercise Conducted at Eminik Lodge, with Consultant FPIC, with three representatives drawn from the Stakeholders Steering Committee (SSC)

52. The Ogiek resisted these names - which loosely translates to “paupers”, “cattle-less people “, “people with no fixed abode” - asserting and self-determining that they’re OGIEK - caretakers of all plants and animals. Their rights as citizens were compromised by the denial of registration in the issuance of identity cards in 1937, and 1958.
53. Evictions out of their ancestral forestlands has been the hallmark of the Ogiek peoples in the Country. Evictions and attempts at eviction of the Ogiek, have been reported since 1903, when the British colonial administration planned their eviction from forests near the Kenya-Uganda railway. Subsequent evictions have been documented, in 1911 following the 1st AngloMaasai Treaty and 1926/1927 to pave way for white settler farms. Between 1946 and 1956, the colonial authorities evicted the Ogiek from West Mau³⁰, March 1993³¹, out of Tinderet in 1999 evictions from Enoosupukia in 26 March 2002, to mention but a few.³²
54. The Ogiek were forcefully dispersed into reserves of the bigger tribes with whom they had close affinity – especially Maasai and Kalenjin - “ that whenever possible, the Dorobos were to be transformed into members of and be absorbed into the tribe with which they have most affinity.”³³ Kenya’s laws and policies on land and natural resources were mostly insensitive to Ogiek community concerns and often leaned towards a conservation approach that places high premium on separation of people from nature – Fortress conservation.
55. Reasons and justification often proffered for the evictions and the lack of recognition of the Ogiek customary rights to land and territories are varied. They include evictions as a means of having them assimilated by bigger tribes³⁴, land alienation for farming purposes, illegal logging and conservation, the need for resettlement³⁵ (often away from their ancestral lands) and generally facilitate forest excisions for purposes other than Ogiek land ownership,
56. From the colonial times to the recent past, most of the ancestral forestlands of the Ogiek were turned into government forests reserves over which the Ogiek had no rights. The overall effect of the trends described in the foregoing, is a situation in which a common factor is that ‘most Ogiek wherever they are located; have got no place to call home’.
57. Consequences of the sustained evictions are far reaching, both to the affected communities and forest ecosystems in question. Overall, members of the Ogiek communities appear to have been criminalized and presented as lawless trespassers and poachers, who had no entitlement to any land.
58. The Ogiek – who are relatively faithful stewards of nature - were separated from their ancestral forestlands. They were disconnected from their sacred sites and their ancestral graves. They were harassed and their civil liberties violated, through displacement, disruption of livelihoods,

³⁰ Gazette notice No. 117 of 1960

³¹ Gazetement of Ogiek locations and sub-locations of Nessuit, Mariashoni, Bararget, Tinet and Kiptoro

³² Ogiek Welfare Council and Towett J. Kimaiyo, 2004. Ogiek Land Cases and Historical Injustices, 1902 – 2004

³³ The Carter Land Commission Report, cmd 4556, 1934

³⁴ Ogiek Welfare Council and Towett J. Kimaiyo, 2004. Ogiek Land Cases and Historical Injustices, 1902 – 2004

³⁵ Mauche Settlement Scheme, Tinet/Kiptagich Settlement Scheme, Mariashoni location, Elburgon division and Nessuit location, Njoro division and Nakuru district; Chepalungu and Olenguruone(1939), Kiptagich Settlement Scheme(1986)

destruction of property, erosion of their identity & cultural heritage, including their indigenous language via assimilation and related processes.

59. The Ogiek, now numbering about 30,000 peoples, have consistently and intergenerationally protested and resisted the incessant evictions seeking justice for their ancestral lands and way of life through public protests, written petitions, organizing delegations to relevant state offices as duty-bearers, lobbying and advocacy at different levels and undertaking public litigations.
60. Numerous court cases have so far been filed by the Ogiek in separate courts in the Republic of Kenya.³⁶ The outcomes of these cases have been mixed. Examples in this elusive quest for justice, through the corridors of “justice” include decisions on the Ogiek of Chepkitale³⁷ and the Ogiek of Mau.³⁸ Despite instances of favorable Courts’ and regional human rights mechanism’s decision on Ogieks’ claims – nationally and regionally – such as the Ogiek of Mau,³⁹ the state’s efforts towards implementation and respect of such decisions has been slow and inconclusive.⁴⁰ Other examples include, the Environment and Land Court ruling on the Ogiek claims over their ancestral domains at the Mau⁴¹ and the Ogiek in 1997⁴²
61. Meanwhile the gazetted forests reserves were deforested and degraded through commercial logging, charcoal burning, encroachment of human settlement, ecosystem services were compromised, for example five of the six major rivers flowing into the Rift Valley have become seasonal, while River Makalia has dried all together.

³⁶ Ogiek Cases: HCCA No. 635/97: Joseph Letuya and 21 others Vs Attorney General and 5 others; HCCA No. 228/2001: Joseph Letuya and 21 others Vs Minister for Environment and Natural Resources; HCCA No. 238/99 and Appeal No. 98/2000: Francis Kemei and 9 others Vs Attorney General and 3 others; Simon Kiwape and 19 others Vs Muneria Naimodu and 2 others in Senior Resident Magistrate Court at Narok Civil Case No. 19/97.; Narok Misc Application No. 7 of 1999 and Tribunal case No. 19/1998. Marinwa, Sogoo and Ololoigero families Vs Isaiah Cheluget. Judicial Review HCCA No. 421 OF 2002 (Republic Vs Minister for Environment and Natural Resources and Ministry of land officials. NRC Misc. CIVIL APPL. No. 1 of 2003, Simon Milgo Vs Land Dispute Tribunal, Elburgon Division.

³⁷ Petition 1 of 2017 at the High Court in Bungoma (Peter Kitelo & Others v AG & Others)

³⁸ Application No. 006/2012 African Commission on Human and Peoples’ Rights V Republic of Kenya

³⁹ Taskforce on Implementation of the Decision of the African Court on Human and Peoples Rights Issued against the Government of Kenya in Respect of the Rights of the Ogiek Community of the Mau (Gazette Notice No 10944 of 23rd October 2017) available at http://kenyalaw.org/kenya_gazette/gazette/download/Vol.CXIX-No_.167_.pdf

⁴⁰ KNCHR. Kenya @ 10: A Decade After: The State Of Human Rights Post The 2010 Promulgation Of The Constitution. A Human Rights Scorecard

⁴¹ Joseph Letuya & 21 others v Attorney General & 5 others [2014] eKLR; Republic of Kenya N The Environment and Land Court At Nairobi, Elc Civil Suit No. 821 Of 2012 (Os), 17th March 2014

⁴² Commission On Revenue Allocation (CRA). Promoting An Equitable Society Second Policy And Criteria For Sharing Revenue Among Marginalised Areas; Role of Minority and Marginalized Communities in Kenya in Reduction of Emerging Exclusion and Inequalities in Land and Natural Resources Management, NGEC, 2015.

The Ogiek of Uasin Gishu

62. The Ogiek of Uasin Gishu customarily lived in Kipkurere, Cengalo, Nabkoi, Timboroa and Lorenge forest stations, from where they were evicted to the present Cheboror farm and Ndungulu village in Kesses Sub County.
63. Since 2006, this community have been living as squatters in other people's farms on the outskirts of forest station with some renting houses in the local shopping centers – hence are located at Lainguse Sublocation, Tarakwa Ward within Cheborror and Ndugulu villages.
64. The community predominantly relies on casual labour, beekeeping and to a lesser degree livestock keeping for their daily subsistence.
65. A community census undertaken in 2021, places the population at approx. 5430 (2700 children, 1629 women and 1080 men) with over 350 household.⁴³ The community is calling on government to help them settle on their ancestral land in Kipkurere.

c) Project Actors, Institutional Arrangements and Respective Responsibilities

66. The Project Steering Committee (PSC) provides oversight for overall project implementation, ensuring alignment of the Project to ongoing national and county programmes and activities. The committee has representation from national and county governments and Development partners including the PS Environment, IFAD, Elgeyo Marakwet and Uasin Ngishu county representatives and TNC.
67. IFAD has responsibility for overall supervision of the project, financial management and reporting to the GEF. It is the fund manager and will undertake supervision, mid-term review and final evaluation of the project. IFAD also has responsibility for undertaking the social, environmental and climate risks and impacts assessments and for instituting the requisite mitigation measures.
68. The Nature Conservancy (TNC) has delegated responsibility from the National Treasury to serve as Lead project executing agency. TNC undertakes this role with support from other relevant state agencies present on the project area.⁴⁴ It will host and coordinate activities of the Project Management Unit (PMU) on behalf of the EIWF and undertake day-to-day management and implementation of the Project.
69. Financial management of the project will be a responsibility of TNC. The project will be implemented following TNC procurement regulations, complemented by the IFAD Project

⁴³ Ogiek Peoples Development Programme (OPDP), 2022

⁴⁴ Water Resources Authority (WRA), Water Services Regulatory Board (WASREB) and the National Environment Management Authority (NEMA)

Procurement Guidelines. The PMU will be supported by the requisite administrative and technical staff.⁴⁵

70. A Stakeholder Steering Committee (SSC) is in place to provide guidance and support to implementation of day-to-day project activities. The SSC brings together major stakeholder groups and implementation partners (State Agencies⁴⁶, Academia⁴⁷, private sector⁴⁸ and community⁴⁹) to ensure effective and inclusive stakeholder engagement and coordination.
71. County government – Forest Conservation and management⁵⁰, and promotion of cultural heritage and Indigenous knowledges are devolved functions. Counties remain strategically placed to impact indigenous peoples’ rights and livelihoods securities. The County Integrated Development Plans (CIDPs) and associated Annual plans and budgets are the foundational development planning and operational tools upon which all development actions within the County are undertaken. Activities to be supported under the EIWF project are envisioned to align with priority interventions identified within the participating county’s current CIDPs.
72. Other critical institutions with oversight, regulatory and operational functions working within the natural resources sector identified to be relevant in the context of implementation of EIWF project include Kenya Forest Service (KFS), Kenya Forestry Research Institute (KEFRI)”, Kenya Water Towers (KWTA), National Environment Management (NEMA), Water Resources Management Authority (WRMA), and the Water Resources Users Associations (WRUAs). Each of these institutions has a designated role in the implementation of the EIWF project, hence the need for a proactive arrangement for engaging with Indigenous communities present in the project area.
73. In addition, other participating stakeholders whose work has a bearing on Indigenous communities’ rights and livelihoods include the University of Eldoret, Kenya Association of Manufacturers (KAM), Kenya National Chamber of Commerce, and Industry and the Iten-Tambach, Water and Sewerage Company (ITEWASCO) and ELDOWAS, Capacity building on knowledge and perspective of these actors towards Indigenous communities needs to be enhanced.

⁴⁵ Is there a Focal Point on IPs within the PMU

⁴⁶ County Government - Elgeyo-Marakwet and Uasin Gishu County; ELDOWAS, ITEWASCO, National agencies KWTA, KFS,

⁴⁷ University of Eldoret, Moi University

⁴⁸ KNCC, KAM,

⁴⁹ WRUA and CFA IPLCs

⁵⁰ CoK 2010, Schedule Four Part (2), 10(b)

d) Representation, Decision-making Arrangement & Communication

74. The overall goal of the representation and communication aspects of the project is to promote meaningfully effective interactions between project implementors and Indigenous communities in the project site. This will facilitate and ensure that all parties have details such as the process, frequency, or triggers for ongoing information sharing; decision making protocols, roles, and timelines.
75. The communication framework elaborates principles, strategies, and structures on how the EIWF Project partners and Indigenous communities in the project area should interact at each stage of the project to satisfy the aspiration of free, prior and informed consent.
76. A *Sub project steering committee* will be formed where project activities will be implemented in indigenous communities' areas. The committee will comprise of TNC, County/Subcounty relevant sector ministries and Indigenous communities' representatives.
77. This committee will provide linkage between TNC as lead executing entity/PMU, the County administration and Indigenous communities present in the project area. It should meet quarterly and work as focal point for all Indigenous communities related issues during the implementation of the Indigenous Peoples Action plan (IPAP).
78. The committee will be informed about all relevant EIWF Project activities and should communicate such information through the Indigenous Communities' representatives to the IPs communities through the Ogiek CBO Consortia. It should also gather information and feedback from the Ogiek communities to channel back to the SSC and the relevant County departments.
79. The lead project executing entity (TNC) and other project partners will make all relevant information available to the Ogiek community present in the project area in an appropriate form, manner, and language. This information could be in the form of brochures, leaflets, or booklets or in-person dialogues, including through use of local languages.
80. A summary of the Indigenous Peoples Action Plan will be made available in hard copies at: (i) Offices of the TNC; (ii) Sub County/County Office; and (iii) Ogiek CBO Consortia. An electronic version of the IPAP endorsed by the Ogiek community and Project Implementers will be placed on the official website of TNC and the official website of IFAD.

a) Affirmed Channels of communication with Ogiek of Uasin Ngishu

81. The Ogiek community resolved that their primary channel of communication in the context of EIWF Project is the Ogiek Consortium Community Based Organization. The CBO provides oversight and coordination on matters related to overall development initiatives touching on the Ogiek of Uasin Gishu.

82. Communication is to be delivered through the CBO Chairman, Mr. Wilson Kurgat of 0722942038 and official email: ogiekconsortiumcbo@gmail.com. Other CBO officials includes the Secretary; Paul Sang (0712021197) and Treasurer, Daniel Bomoo (0790000237). This is the platform through which the Ogiek of Uasin Ngishu targeted future FPIC related engagement are to be coordinated.
83. The Second layer of communication is through Clan Leadership. The 25 Clans of Ogiek of Uasin Gishu are brought together under the umbrella of the Ogiek Council of Elders. The Council is primarily concerned with issues related to cultural heritage and preservation, land and natural resources and conflict resolution.
84. The Community expressed their concern that, they're not directly represented in the Stakeholder Steering Committee. Consequently, the community nominated Mr Paul Sang (contacts 0712021197) as their designate representatives within the EIWF Stakeholders Steering Committee (SSC)
85. The Ogiek community representative participating in the FPIC consultation process welcomed the EIWF Project noting its potential benefits to the community. All necessary efforts should be made by the EIWF project Lead-agency to fully orient the nominated representative on the EIWF project visions and activities.

b) Social and Environmental Risks

86. EIWF project Implementors, financiers and affected communities are committed to develop a shared understanding of the environmental, social, and cultural impacts of the project and how such impacts will be managed.
87. The project applied IFAD's Social, Environmental and Climate Assessment Procedures (SECAP) tool to identify project-specific social, environmental and climate risks and impacts, and in ensuring that preventive actions and mitigation measures are incorporated into project design and implementation.
88. Through a collaborative and partnership approach - the EIWF project has assessed the social and environmental risks associated with the project, rating it as moderate (category B). The main stakeholders relevant in mitigating identified challenges within the project areas include - KFS, KWTA, NEMA, WRA, WRUAs, The TNC and counties.
89. Some of the identified environmental risks included: Farming along riparian and wetlands leading to siltation and sedimentation of water sources, ii) pollution of water sources through environmentally unfriendly practices such as agrochemicals upstream, washing effluent, discharge into water sources, planting of eucalyptus tree species near wetlands or water sources; iii) land and mudslides arising from poor land use practices such as farming and/construction on steep slopes, iv) land degradation and deforestation associated with overreliance on fuel

wood & charcoal, abuse of the Shamba/PELIS system, overstocking and overgrazing in forests, v) Weak local NRM institutions (CFAs, WRUAs) and their poor coordination, and vi) weak or lack of environmental policies and insufficient resources at county.

90. Some of the potential social risks identified included i) unclear benefits sharing mechanisms ii) conflicts over lack of clarity on access, ownership and control over natural resources, iii) absence of FPIC where Indigenous communities are present in the project area, iv) failure to account for gender disparities and inequalities in areas of women participation in beneficial livelihood activities and decision-making arrangement, and v) Youth unemployment among others.
91. The social assessment ultimately aims to ensure that the proposed project interventions are supported by institutions including - Indigenous communities' - with adequate capacities, that activities supported are socially and culturally acceptable in the context of IPs; mitigate adverse impacts, optimize equitable benefit sharing and promote environmental sustainability.
92. Responsibility of developing and implementing safeguards measures would lie with the TNC as lead implementing agency with oversight role resting with IFAD. Dedicated individual(s) will be identified within the TNC to advance and monitor implementation of the IPAP.

c) Safeguards – Mitigating against Potential adverse impacts.

93. An Inception workshop was organised by the PMU, IFAD and TNC together with the GEF focal person in the Ministry of Environment and Forestry to share the objectives, obtain a full buy-in from all stakeholders and launch the project. The sharing entailed orientation by IFAD on M&E and reporting procedures and processes, including safeguards requirements.
94. IFAD will provide safeguards training to the PMU, project implementing partners, private sector entities implementing the project, and other relevant stakeholders. The training will be focused on various risk management tools, including on outcomes of the FPIC process & IPAP and opportunities to enhance positive outcomes, monitoring of actions and reporting progress, including collaborative action with NEMA.
95. The project will undertake an environmental impact assessment (EIA) and develop an environment and social management plan (ESMP) for each of the participating counties to ensure that potential and existing risks identified during the design period are addressed,
96. The proposed ESMP will provide mitigation actions for dealing with conflicts and risks around land, and in managing collaboration with relevant national government agencies, county governments and Indigenous communities.
97. IFAD will provide oversight over transparency and accountability throughout the project life cycle by: (i) disclosing draft and final Environmental and Social Impact Assessments, ESMPs, and other relevant documents to stakeholders in easily accessible formats; and (ii) responding to all concerns and complaints in a timely manner.
98. The project commits to comply with good practice on Labour and working conditions as informed by national laws and ILO best practices, ensuring prevention of all forms of forced

labour, child labour and discrimination in project sites, including considering affirmative action arrangements for marginalized communities in access to opportunities presented by the EIWF project.

99. The project will promote acceptable standards of occupational health and safety for example, best practices on community health, safety and security in areas of water quality, safe use of water pans to prevent injuries from falls, or vector diseases, safe use of agrochemicals and the disposal of related waste, Soil and water conservation measures (landslides and mudslides) and energy saving cook stoves and biogas (to address respiratory diseases), will be promoted.
100. A grievance, complain and redress mechanism for the project will be established to ensure compliance with IFAD's social and environmental policies, TNC guidelines on human rights, and relevant national and county safeguards.
101. IFAD in collaboration with TNC and other key project partners will carry out periodic reviews of beneficiary and grievance data to ensure targeted locations where indigenous communities are present are reached and recurring complaints investigated to ensure mitigation measures to avoid, minimize, mitigate, or compensate for these adverse effects are undertaken. Number and type of complaints lodged with the program and the actions taken will be tracked, and appropriate mitigation measures planned and implemented.
102. Special attention will be given to other vulnerable and marginalized groups such as women, unemployed youth, including among Indigenous communities. Project Gender and Youth Action Plans will be developed. Safeguards monitoring indicators for indigenous communities will be embedded in the project's M&E framework.

d) Securing Project Benefits for Indigenous Communities within Project Area(s)

103. The Ogiek community of Cheboror and Ndungulu villages present in the EIWF project landscape proposed the following livelihoods activities as potential areas in which the EIWF project should invest to facilitate security of local livelihoods and optimize project benefits:
 - Provision of modern hives for BeeKeeping/honey production
 - *Agroforestry sector*: Support establishment of Tree Nurseries and Fruit Trees within their locality
 - *Affirmative action in access to employment* opportunities within the context of EIWF project, e.g, as Forest scouts/monitors as they'll compliment technical training skills with Indigenous knowledge systems related to natural resource management. One Ogiek graduate youth who was presently unemployed was cited as one potential candidate for such opportunities.
 - *Livelihoods support & Income generating Activities* – provide for reliable access to water for tree growing towards afforestation/reforestation and promote controlled Shamba system.
 - *Land and natural resource governance*: the community requested for support towards establishment of an Ogiek oriented CFA to enable their contribution towards forest restoration and conservation and facilitate their access to forests related benefits as recognized user-rights holders.

- *Traditional knowledge system and practices:* support protection of Ogiek sacred and cultural sites within the forest

104. The requested support and activities of interests shared by the Ogiek indigenous community are generally aligned with proposed areas of intervention and the anticipated outcomes under the EIWF project inter alia, improved management of over 85,000 hectares in forest-protected areas⁵¹, conservation of riparian land for the benefit of all stakeholders, enhanced sustainable alternative livelihoods options (beekeeping, potato value chain, and addressing diminishing water volumes and quality) and increased farm and household productivity and income among other aspirations.⁵²
105. The Uasin Gishu County Government representatives were briefed about the EIWF project, the FPIC engagement process with Ogiek Indigenous communities resident project site within the County. The County government already committed to the aspiration of the project and is represented at the SSC.
106. Focused group discussion with some of the national government EIWF Project stakeholders - KWTA and KFS – revealed the inherent strategic opportunities and their willingness to partner with Indigenous communities in the project area to facilitate optimal positive project outcomes for communities. These agencies acknowledge the priceless contribution of indigenous communities in catchment protection and forest conservation.
107. The agencies are committed to support the indigenous communities in awareness raising on relevant policies, enhancing their engagement in catchment protection & participatory forest management, including through strengthening the role of CFAs & WRUAs to promote a balance between the aspiration for nature conservation for enhanced ecosystem provisions and livelihoods needs of communities.

e) Capacity Building and Enhancing Opportunities for Project Benefits

108. The relevant regulatory agencies such as WRA and NEMA, KWTA's will be engaged to build capacities of indigenous communities towards addressing identified capacity gaps, risks mitigation as well as undertake enforcement measures in areas such as wetland protections and promotion of alternate livelihoods for farmers and communities around wetlands, including promotion of appropriate farming practices such as terraces and conservation agriculture.
109. Relevant County departments WRA, NEMA, will undertake sensitization and training activities targeting farmers on appropriate and safe use of agrochemicals, including their disposal of waste. These entities in collaboration with NEMA and KFS will undertake sensitization sessions with the communities on prevention of water pollution and training on

⁵¹ The protect forest blocks include: Cheboit, Chemurokoi, Kaisungor, Kaptagat, Kerrer, Kipkabus (Uasin Gishu), Kipkabus (Elgeyo-Marakwet), Kipkunurr, Northern Tinderet, Sogotio, Toropket

⁵² Eldoret-Iten Water Fund Project Fact Sheet

safe water use. Construction of livestock watering troughs and fencing off water sources/points such as springs.

110. Counties, WRUAs, KFS, KWTA, NEMA will proactively and consistently engage Ogiek indigenous communities through their CBOs Consortia to implement their ecosystem conservation plans including establishment of nurseries to supply required tree seedling and in promotion of alternative household energy sources such as biogas, solar energy and improved cook stoves or energy saving stoves.
111. Relevant County departments, KWTA, WRA, WRUAs will engage indigenous communities in activities aimed at promoting protection of riparian land including through establishment of nurseries and planting of indigenous trees along riparian land.
112. Relevant County departments, KWTA, WRA, WRUAs will undertake capacity assessment and training of WRUAs and CFAs among Ogiek Indigenous communities to facilitate the strengthening of their governance and management structures, development of participatory forest management plans for CFAs and sub-catchment management plans for WRUAs. These stakeholders will also explore, identify, and promote opportunities for sustainable livelihoods diversification options or IGAs associated with the forestry sector such as planting and sale of tree seedlings, bee keeping and fruit trees.
113. TNC, KWTA, WRA, KFS, and relevant County departments will proactively involve Ogiek indigenous community present in the project area in the planned sensitization and exchange learning activities related to farm forest activities such as agroforestry, fruit trees and other livelihood benefits – bee keeping, establishment and sale of honey and seedlings to facilitate fair and equitable access to benefits.
114. WRA, NEMA, KWTA, KFS, security agencies, and relevant county departments in collaboration with already established government multiagency unit dealing with resource use conflicts, will promote and support pre-emptive approaches in addressing resource use conflicts, including through promoting rain water harvesting (e.g. water pans and water tanks at household level) minimize or stop illegal and over abstraction of water, water pollution, farming on riparian land and on wetlands; Rehabilitation of dams, water sources and building on and strengthening community based grievance redress.
115. TNC, KWTA and relevant county departments will promote income generation activities aimed at addressing glaring youth unemployment and associated security risks among indigenous communities including activities such as bee keeping, tree nursery establishment, ICT related such as use of Drones for monitoring project activities among others.
116. The EIWF project - through enhanced beneficiary outreach and communication delivery - will support efforts towards raising awareness of Indigenous communities in the project area on their rights and what they are entitled to constitutionally. These include right to

development, representation, to be heard at different levels of governance, protect their cultural heritage including language and participation in leadership

f) Grievance Redress Mechanism

117. IFAD requires that projects are carried out in compliance with its policies, standards, and safeguards. It also requires that recipient of its funding implement project-level grievance redress mechanisms that are accessible and inclusive in order to receive and facilitate the resolution of concerns and grievances related to the environmental and social performance of projects.
118. IFAD has an established complaints procedure to receive and facilitate the resolution of concerns and complaints regarding alleged non-compliance of its environmental and social policies, and the mandatory aspects of SECAP in the context of IFAD-supported projects.
119. The objective of the grievance redress mechanism (GRM) is to provide arrangements for accessible procedures appropriate to the project to address grievances by the affected indigenous communities arising from project implementation. The mechanism also considers the availability of judicial recourse and customary dispute settlement mechanisms among the Indigenous communities.
120. Consulted Ogiek Indigenous community representatives present in the project area called for establishment of a community level arrangement for resolution of grievances and conflicts which incorporates use of their traditional dispute resolution system to the extent possible.
121. The GRM in the context of the EIWF will seek to integrate both indigenous and corporate ways of resolving problems into the complaint's mechanism to ensure mutually acceptable processes and outcomes.
122. The GRM is designed with the objective of solving disputes at the earliest possible time for the sake of all parties concerned. This will ultimately minimize referring such matters to the law courts for resolution which would otherwise be costly and take a considerably longer time. Yet, access to the mechanism is without prejudice to the complainant's right to legal recourse.
123. A GRM integrated within existing structures at national, county and community levels will be established to ensure that persons affected by the project have an avenue to raise and have their grievances resolved.
124. A Grievance Redress Committee (GRC) will be established at the project area. The GRC will comprise of; - The Ogiek Consortia CBO, NGOs active in the area, women and youth representative present in the project area, relevant department of the national & county government and TNC. The GRC is to be formed and activated during the IPAP implementation process to allow indigenous communities sufficient time to lodge complaints and safeguard their recognized interests.

125. The grievance procedure will be simple and administered as far as possible at the local levels to facilitate access, flexibility and ensure transparency. Traditional dispute resolution structures existing among the Ogiek Indigenous communities will be used as the first step in resolving grievances experienced at the community level informed by a thorough investigation of the facts.
126. As a proactive measure, the GRM will designate an independent person/focal point with regularized schedules to monitor incidences of complaints experienced among vulnerable groups within indigenous communities such as women, youth & persons with disability, to ensure that their concerns have been identified, articulated, and promptly addressed.
127. As part of the GRM, the Indigenous communities will be provided with a variety of options for communicating issues, grievances, and concerns, including in writing, orally, by telephone, over the internet or through more informal methods.
128. To facilitate uptake of the GRM services, when needed, requisite capacity building/awareness raising will be undertaken among Ogiek Indigenous communities present in the project area. Assistance will also be given to Indigenous communities to document and record the complaint, whenever need arises.
129. A grievance log will be maintained by the TNC - documenting and recording how complaints are logged, assessed, assigned to an individual for management, tracked and closed out or “signed off” when resolved, ideally with the complainant(s) being consulted, where appropriate, and informed of the resolution. In addition, provision will be made for confidentiality of information or anonymity of the complainant (s) whenever necessary.
130. Capacity of the existing interagency team dealing with conflicts and security issues within the participating Counties and community level mechanism on resolving disputes and conflicts will be strengthened.
131. IFAD is committed to working with the affected parties to resolve complaints; (i) provisions for project-level grievance redress mechanisms to complement IFAD’s Complaints Procedure;⁵³ which committed to responding to all concerns and complaints in a timely manner, (ii) ensuring that the complaints procedure and project-level grievance mechanism are easily accessible to affected persons, culturally appropriate, responsive and efficient; and (iii) maintaining records of all complaints and their outcomes.
132. In all cases, if the complainants disagree with IFAD's response, they may submit a request to SECAPcomplaints@ifad.org and request that an impartial review be carried out by the Office of the Vice-President).
133. All the grievances that will not be successfully resolved by the GRC, IFAD’s complain procedure, or which the Indigenous communities are dissatisfied with in terms of resolution

⁵³ <https://www.ifad.org/en/accountability-and-complaints-procedures>

will be channelled to the existing structures in Kenya for handling grievance. The Constitution of Kenya (CoK) has provided for Issue-specific courts (Labour, land, and environment etc) Courts will serve as the ultimate stop in the event of disputes or complaints that cannot be resolved through other alternative means.

g) Monitoring and Evaluation

134. Output 3.1.1 of the EIWF project commits to development and adoption of a M&E system for and with local stakeholders and county decision makers within the two counties. Key indicators generated from the FPIC/action plans reports and ESMPs will be embedded into the project's operational monitoring framework and the PMU tasked with ensuring progress in its implementation over the project period.
135. The M&E system will be deployed at two levels of project management: PMU, and county implementation and support teams, including relevant partner organizations. M&E will also be designed on the basis of the indicators and means of verification specified in the EIWF project results framework.
136. The implementation of the IPAP will be monitored by all implementing agencies and a monitoring system involving own staff, partner implementing agencies, county governments, and Indigenous communities will be established to ensure effective implementation of the IPAP.
137. A set of monitoring indicators have been determined during FPIC and IPAP development process. An independent M&E expert/consultants will be engaged by the implementing agencies to verify monitoring information of the IPAP, as necessary.
138. The monitoring and evaluation indicators include for Indigenous peoples includes: i) compliance of activities undertaken to the objectives and methods identified in the IPAP ii) process and threshold of consultation at the community level; (ii) direct representation of IPs in decision-making arrangements and relevant activities; (iii) any potential negative impacts of the project and mitigation measures; (iv) accessibility, use and outcomes of the grievance redress mechanism, v) impact of the project on income and standard of living within the communities inter alia access to project benefits i.e. support for alternate livelihoods, enhanced opportunities for Income Generating Activities (IGAs), capacity building, access to employment opportunities vi) incorporation of Indigenous knowledge systems and practices on natural resources management and the inclusion of women and youth.
139. The external agencies will collect baseline data, including qualitative information and analyze the same to assess the impacts of the project on Indigenous communities. External experts will advise on compliance issues, and if any significant issues are found.
140. TNC will collect required data/information and regularly analyze project outputs and impacts considering impact on Ogiek Indigenous communities, and periodically report the results to the IFAD, as deemed appropriate.

141. Annual Project progress reports will be prepared by TNC in collaboration with IFAD, as part of the overall M&E reporting requirements including assessment of project performance within IPs' territories against the set indicators and aspirations of the IPAP.

h) Costs & Budgetary Implications for IPAP Implementation:

142. All costs for implementation of IPAP will be financed by the EIWF project. The costs will be estimated through consultation with community representative and relevant government officials. Project resources will therefore be made available to support consultation/meetings, information dissemination, capacity building efforts, livelihoods diversification & IGAs. implementation & monitoring, operationalizing the grievance redress mechanisms as described in the IPAP.

	Indicative Budgetary Item	Unit cost Ksh
1.	Consultation/meetings, information dissemination - Facilitate inclusive participation of IPs with adequate gender and generational representation; customary/traditional IPs organizations	789,000
2.	Capacity Building & skills development - Capacity assessment and training of WRUAs and CFAs, - Support for development & implementation of CFAs ecosystem conservation plans - development of participatory forest management plans for CFAs - sub-catchment management plans for WRUAs	1,578,083
3.	Promotion of Environmental-friendly alternate livelihoods, IGAs & self-employment training - Establishment of nurseries. - Training and provision of alternative household energy sources (biogas, solar energy, improved cook stoves/energy saving stoves - promotion of rainwater harvesting (e.g. water pans and water) to minimize natural resource conflict - Planting and sale of tree seedlings, bee keeping and fruit trees	11,043,548
	Addressing identified social and environmental risks – Sensitization & support - Wetland protection, - appropriate farming practices, - appropriate and safe use of agrochemicals, - prevention of water pollution & safe use - construction of livestock watering troughs and fencing off water sources	1,578,083

4.	Implementation & monitoring, GRM (Participation in SSC - Establishment & operationalization of the GRM including support activities of the GRC, - Monitoring and reporting	789,000
	Total	15,780,834

III. Other Issues of Interest raised by the Ogiek Indigenous communities.

143. These are issues raised by the indigenous community, which might be beyond the scope of the current reach of EIWF Project but remain of critical interest for the Ogiek indigenous peoples present in the project site.
144. That the EIWF project facilitates their return to the ancestral lands in the forests.
145. The Ogiek of Cheborror and Ngugulu village expressed fear of mounting threats of assimilation by their neighboring dominant ethnic groups, hence the need for affirmative actions to target them under the EIWF project.
146. The Ogiek called for urgent affirmative action in areas of access to formal education by members of their community including improved learning infrastructure and provision of Scholarship for gifted and needy learners.

Annex i: Certificate of Registration - Ogiek Consortia CBO

Certificate No. 40768


Republic of Kenya
MINISTRY OF EAST AFRICAN COMMUNITY, LABOUR AND SOCIAL PROTECTION

Certificate of Registration of Community Based Organization (CBO)

This is to Certify that

OYIEK CONSORTIUM COMMUNITY BASED ORGANIZATION P.O. BOX 104-SURUT KURET
Group Name / Project

<u>WAG/CBO/076</u> Registration No.	<u>KESSES</u> Division	<u>9TH AUGUST 2017</u> Date of Registration
<u>LAINWUIE</u> Sub-location / Ward	<u>KESSES</u> Constituency	<u>KESSES</u> Sub County
<u>CEKINGURE</u> Location	is registered with the office of the Sub County Social Development Officer (SCSDO) as a Community Based Organisation (CBO)	
 For: County/Sub-County Social Development Committees		<u>WASIN GISHU</u> County
<u>WASIN GISHU/KESSES</u> County / Sub County	<small>Note: The Contents of this Certificate should not be erased, altered or defaced in any way</small>	<u>9TH AUGUST 2017</u> Date of Issue 