

KFSHG/NEMA/LP-KWSI ROAD/18/2

Kwasasi Farmers Self Help Group

P.O. Box 314

Lamu.

13<sup>th</sup> January 2019

The Chairperson,  
National Land Commission  
Ardhi House, 1st Ngong Avenue,  
Off Ngong Road,  
P.O. Box 44417-00100  
NAIROBI



Dear Sir:

**Re: FOLLOW UP INQUIRY ON THE NON-COMPLIANCE WITH STATUTORY  
PROCEDURE FOR THE ACQUISITION OF LAND FOR KWASASI ROAD PROJECT**

The above matter and the letters attached herein **Annex1** dated **06 Nov 2018** refer.

Kindly note that we have not heard from your office regarding the application on the non-compliance with statutory procedure for the acquisition of land for kwasasi road project.

The Access to Information Act (section 9) provides that, the public officer shall avail the information within twenty-one (21) days of receipt of the application. Given that this time has now lapsed we request you furnish information on the application within 14 days of the date of this letter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mohamad Shee'.

Mohamad Shee

Chairman Kwasasi Farmers Self Help Group

KFSHG/NLC/LP-KWSI ROAD/18/1

Kwasasi Farmers Self Help Group

P.O. Box 314

Lamu.

5<sup>th</sup> Nov 2018

The Chairperson,

National Land Commission

Ardhi House, 1st Ngong Avenue,

Off Ngong Road,

P.O. Box 44417-00100

NAIROBI



Dear Sir:

**Re: NON-COMPLIANCE WITH STATUTORY PROCEDURE FOR THE ACQUISITION OF LAND FOR KWASASI ROAD PROJECT**

I write to you on behalf of and as members of Kwasasi Farmers Self Help Group in Lamu.

Kwasasi Farmers Self Help Group is made up of persons whose farms were destroyed during the implementation of the road linking Lamu Port to Kwasasi. Kwasasi is on Lamu mainland in Hindi ward, Hindi location, 25km from Mokowe town where the 1050 mega watts coal fired power plant will be constructed. The plant will be the first in East and Central Africa.

The road was implemented in March 2017 by the Ministry of Transport and according to the former Principal Secretary Ministry of Transport Mr. Irungu Nyakera, the 9Km road aims at connecting the Kenya Shillings 200 billion coal power plant in Kwasasi to Lamu Port(**attached copy of the daily annex 1**).

Articles 40 of the constitution grants everyone a right to acquire and own property of any description, in any part of Kenya. However, it also allows the state to deprive the person of the property on condition that it is an acquisition of land for public purpose and in the public interest. In this regard it requires prompt payment in full of just compensation to the person. Section 107 to 115 provides a step by step land acquisition process which includes: request approval by the NLC, publication of the Gazette notice of intention to acquire the land, service of notice to the registrar and any person who the commission determines to have an interest in the land, inquiry

to be held thirty day after issuance of notice of intention to acquire the land and a written award of compensation.

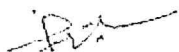
Unfortunately the road has been constructed without consulting the farmers, who are also affected persons herein. We have and continue to bear enormous loss since the road traverses our farms. The road construction destroyed crops such as cashew nut, pawpaw, watermelon, cassava, simsim, peas, pumpkins to name a few which we were dependent on for our livelihood. This has infringed our right to be free from hunger as enshrined in Article 43(1)(C). Further, the statutory procedure for the acquisition of land was not followed as no notices were issued to us and no inquiry was held for the persons whose land was used for the road construction, a clear violation of provisions enshrined in the Land Act 2012.

It is worth noting that a week after the commencement of the road construction, a team consisting of County Commissioner, Hindi area Chief and staffs from Kenya Port Authority (acting on behalf of the Ministry of transport) visited Kwasasi and assessed the damage caused by the road on the farms. As a result the names of the affected persons were recorded (**See annex 2**) and a pledge to the effect that they will be compensated made. To date these affected persons are yet to receive compensation. This is contrary to Article 40(3) of the Constitution of Kenya and Section 111 of the Land Act 2012 which requires just compensation to be paid promptly in full to all persons whose interests in the land have been determined.

We therefore request your esteem office to consider our outcry and grant us monetary compensation for the land used for the road project as well as the crops destroyed.

We look forward to hearing from you within 21 days of receipt of this letter.

Yours sincerely



Mohamad Shee

Chairman Kwasasi Farmers Self Help Group



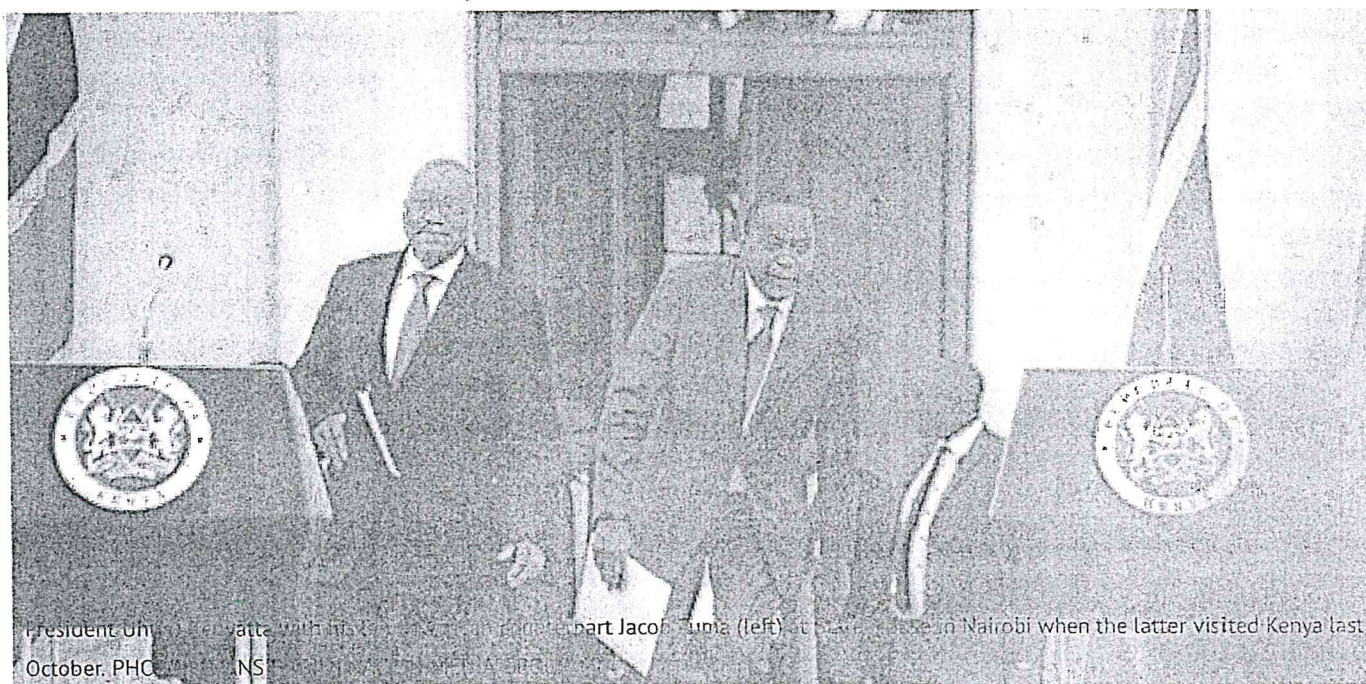
# ANNEX I

ADVERTISEMENT

MARKETS ([HTTPS://WWW.BUSINESSDAILYAFRICA.COM/MARKETS/539552-539552-UJWMR5/INDEX.HTML](https://www.businessdailyafrica.com/markets/539552-539552-UJWMR5/INDEX.HTML))

## South African State-owned lender to fund Sh60bn Isiolo-Lamu road

WEDNESDAY, MARCH 1, 2017 8:38



The Development Bank of Southern Africa (DBSA) is set to fund the construction of the Lamu-Garissa-Isiolo road at a cost of Sh60 billion, the Ministry of Transport has said.

The construction of the 580km road to bitumen standards is part of the Lamu Port South Sudan Ethiopia Transport (Lapsset) project.

Transport PS Irungu Nyakera said in Mombasa that detailed designs of the road had been completed.

"We are glad that the Development Bank of Southern Africa is going to finance the construction of the Lamu-Garissa-Isiolo road to the tune of Sh60 billion. Sh5 billion has already been earmarked for the initial stages of the road construction," he said.

"The funding is already available, and we expect bush clearing to begin in May to pave the way for the major works."

The road construction, he said, would take between three and four years to be completed.



PEOPLE COMPLAINED TO BE AFFECTED WITH THE PASSING ROAD AT  
KWASASI ROAD 1 FROM MAGOGONI

1.	ISSA SHAFI	
2.	ATHMAN SHAHIBU	
3.	MOHAMED SHEE	
4.	MALIK SHEE	
5.	ABUDI MOHAMED SHEE	
6.	SHEE OMAR	
7.	ABDALLA OMAR	
8.	ABDALLA SWALEHE	
9.	FATMA ADAM RASHID	9474548
10.	ALI MUHAJI	
11.	BASHO	
12.	MOHAMED HUSSEIN OMAR	9352486
13.	JOSEPHINE MKAISANGA KIRIGHA	25219824
14.	ESTHER KINYA MWITI	
15.	ABDUREHMAN MOHAMED ALAMIN	037699
16.	KUKIYA ABDULREHMA MOHAMED	9988715
17.	TAIBA ABDULREHMAN	
18.	HASSAN ALI SALIM	
19.	ZAINABU FATHIL	23533252
20.	SAID MAHIBU	27518048
21.	FAUZIA SWALEH	
22.	FATUMA ATHANI	
23.	HASHIM SWALEH	
24.	RUGEYA ALI	11140661
25.	FUADI SULEIMAN	22946722
26.	ABDI GURE BILAL	0650072
27.	PEREZ MUNENE RIMIRI	
28.	ABASS SALIM ABDALLA	5355642
29.	SUBAN ALI BINDA	31833642
30.	ATHMAN ABDALLA WAKATH	0654163
31.	MOHAMED AHMED MOH'D	13536942
32.	MUSTAFA ARMI	
33.	ABOUD MIULI BAUSI	8525120
34.	SUSAN WANGUI GICHOB	28314210
35.	MARY NJAMBI NDWIGA	11292419
36.	DAVID NJOROGE KIHU	23952319
37.	HARUSI ATHMAN MOHAMED	34185557
38.	SCHOLASTICA NAMALWA WAMACHALI	12443274
39.	ARAFI LACHO	9353741
40.	JUSTUS H. KAMBI	2157057



47.	SHEHU KASSIM YUSUFU	13018698
48.	MOHAMED ATWAI SHEKUWE	31833642
49.	ABDURAHAMAN WALAD	10391986
50.	SULAFI SAID ABUBAKAR	10577912
51.	BWANA SAID ABUBAKAR	8453911
52.	TRAVELLAN KATANA	6720934
53.	ATHMAN MOHAMED BAKAR	8525170
54.	BAKARI MOHAMED ATHMAN	8454787
55.	KIFLI	
56.	MOHAMED ABDILLAH ABDI	12432853
57.	WINFRED KATHURE	316545543
58.	ESTHER KINYA	3279371
59.	JUMAA MWANAMKUU NUSRA	8525624
60.	ARAFI LACHO	9353741
61.	ABDALLA AHMED MOHAMED	28146346
62.	JUSTUS H. RAMBI	2157057
62.	FRIDAUS HAMID AHMED	23003236
63.	QUAIS ABUBAKAR	11141698
64.	AISHA ATHMANI	32673813
65.	DHULKIFII ABDALLA	14600228
66.	HUSEMA AHMED MOHAMED	24537814
67.	FESWAL SHARI HASSAN	PP A 1822442
68.	MUSHID M. JUMA	24537814
69.	JAMAL A. MAU	12771194