

Language: English

Original: English



AFRICAN DEVELOPMENT BANK GROUP

PROJECT : KIVUWATT POWER PLANT PROJECT

COUNTRY : RWANDA

EXECUTIVE SUMMARY OF THE ABBREVIATED RESETTLEMENT ACTION PLAN

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Executive Summary of the Abbreviated Resettlement Action Plan

Project title : **KIVUWATT POWER PLANT PROJECT**
Country : **RWANDA**
Project reference : **P-RW-FGO-001**

INTRODUCTION

The KivuWatt Power Project is located in the Kibuye area of the District of Karongi, Western Province of Rwanda. It will use waters in Lake Kivu. The border between Rwanda and the Democratic Republic of the Congo bisects Lake Kivu. The KivuWatt project is located wholly within Rwandan territory.

The project will extract methane from the waters of Lake Kivu and use the gas to generate electricity that will be sold to the Rwanda electricity utility, Rwanda Electricity Corporation (RECO). Phase 1 of the project, which will generate 25MW, is expected to start commercial operation in 2012. Phase 2 of the project, which will generate an additional 75 MW, is expected to start construction six months after Phase 1 is commissioned.

The project is being developed by KivuWatt Ltd., a subsidiary of ContourGlobal under a concession agreement made with the Government of Rwanda in 2009. ContourGlobal is seeking financing from a number of development banks and institutions, such as the African Development Bank (AfDB), the Emerging Africa Infrastructure Fund (EAIF), and the Netherlands Development Bank (FMO). The World Bank Group's Multilateral Investment Guarantee Agency (MIGA) is considering providing political risk insurance guarantees.

The project required the acquisition of land. Thirty-nine individuals and one primary school were economically displaced when the Rwandan Government made available land necessary for the project's Marine Landing Site (MLS) and the Power Plant Site. The Government made the compensation payments and leased both sites to KivuWatt. KivuWatt has not undertaken, and does not plan to undertake, any physical or economic displacement.

Recognizing the implications of economic displacement experienced by the project affected persons (PAPs) following their compensation payments, KivuWatt sought to better align itself with the lenders' policies on involuntary resettlement, specifically those of the African Development Bank and the International Finance Corporation. KivuWatt has developed plans to supplement the Government's actions and has prepared an Abbreviated Resettlement Action Plan in accordance with the Bank's Involuntary Resettlement Policy.

PROJECT ACTIVITIES

The KivuWatt Power Project will develop methane resources contained in Lake Kivu while at the same time reducing the risk of a potentially serious environmental incident from a naturally occurring explosive release of large quantities of these gases. KivuWatt will extract

methane from the waters of Lake Kivu, and process the methane for power generation. The methane gas produced will initially be used to power three gas engine generator sets, 'Gas Extraction Facilities' (GEFs), which will produce approximately 25 MW of electricity for the local grid in Phase 1. Phase 2 is expected to add an additional 75 MW of power, employing nine additional GEFs to expand KivuWatt to just over 100 MW of power.

The project facilities will comprise: (i) one gas extraction and treatment facility per floating platform, or barge, in the deep waters of the lake — there will be one platform per 25 MW of power capacity; (ii) a submerged, floating pipeline to transport the fuel gas ashore from each barge; (iii) an onshore gas receiving facility and power plant, and (iv) a temporary MLS where the GEFs will be assembled and launched from. The MLS will be operated by KivuWatt during the construction phase only and will then be handed back to the Government of Rwanda.

LAND ACQUISITION FOR THE PURPOSES OF THE PROJECT

Current Land Take

The majority of the project's infrastructure is located offshore and consequently minimizes land acquisition. However, the project consists of two on-shore sites. One is the 1.8 ha. MLS that is leased to KivuWatt on a temporary basis until construction is completed. This site was specifically acquired for KivuWatt. The other site is for gas receiving and the power plant (the Power Plant Site). This 5.5 ha. site was allocated to KivuWatt by the Rwandan Government following the failure of the Dane Associates' 2007 power project. (In 2007, the Government had cleared the power plant site and constructed an 11kVA transmission line for the Dane project. After the concession agreement with the Dan project was terminated, the Government of Rwanda entered into a new concession agreement with KivuWatt. KivuWatt was directed to use the power plant site that had initially been prepared for the Dane project.)

Future Land Take

KivuWatt is seeking a plot of land of approximately 2ha for workforce accommodation. KivuWatt is currently in discussions with the Government to acquire a site adjoining the MLS that belongs to the military. If this goes ahead there will be no involuntary resettlement: there is no farming or housing on this land. Prior to Phase 2 of the KivuWatt Project, RECO is expected to have built a new 220kVA transmission line as part of the National Grid Programme that will pass close to the project site. The line is not an associated facility as defined in IFC Performance Standard 1. A short section of transmission line will connect the KivuWatt Power Plant to the new line. This connection will be wholly within land being currently leased by KivuWatt.

REGULATIONS, STANDARDS AND POLICIES APPLICABLE TO LAND ACQUISITION

The project concession agreement states that the Rwandan Government will ensure that the project has the land needed for the power plant and for construction. The Concession Agreement gives KivuWatt leasehold rights to the power plant site for 25 years. The MLS, where the GEFs, etc. will be constructed, is leased to KivuWatt until Phase 2 enters commercial production. At this point, the site will revert to the Government.

Rwandan regulatory requirements

Rwandan land law (Organic Law 08/2005 Determining the Use and Management of Land in Rwanda) states that land may be expropriated for public interest projects through procedures provided by law and prior to appropriate compensation. (Article 3).

Law 18/2007 Relating to Expropriation in the Public Interest sets out the rules for expropriation. It states that only the Government can undertake expropriation, and that the responsibility for doing so lies with District Land Commissions. Under Rwandan legislation, land owners (defined to include those with title and those with historic customary title) are compensated for land and property, crops, etc.; tenants/squatters are compensated for crops and structures. There is provision for landowners to choose between compensation in kind or in cash, although land shortage means that it is often not possible to provide land.

Lenders' Requirements on Involuntary Resettlement

The lenders and insurer have specific policies and standards that apply to land acquisition, compensation and livelihoods restoration. The African Development Bank's Involuntary Resettlement Policy applies to the economic displacement and/or physical displacement or project affected persons (PAPs) brought on by projects. The Bank's Involuntary Resettlement Policy requires either a Full RAP or an Abbreviated RAP, depending on the number of project affected persons. Because the KivuWatt project involves the economic displacement of fewer than 200 PAPs, an Abbreviated RAP has been prepared. Other potential lenders (The Dutch Development Bank, FMO and Emerging Africa Infrastructure Fund, EAIF) as well as the Multilateral Investment Guaranteed Agency apply the International Finance Corporation (IFC) Social and Environmental Performance Standard No. 5, concerning Land Acquisition and Involuntary Resettlement (2006). This standard applies to projects where land is acquired through expropriation and anyone is physically (i.e. houses) or economically (i.e. land under cultivation) displaced.

The preparation of the KivuWatt Abbreviated RAP was guided by Rwandan laws as well the as the lenders' policies and requirements. This Abbreviated RAP was specifically prepared in accordance with the Bank's Involuntary Resettlement Policy.

CONTEXT OF THE PROJECT AREA

The project is located in the Kibuye area of the District of Karongi, Western Province of Rwanda. According to the district administration, the population of the whole district in 2010 is approximately 280,000. The local economy has historically been based on agriculture, some fishing (especially since 1959 when the Isambaza sardine species was introduced from Lake Tanganyika), and trading (including across Lake Kivu with the Democratic Republic of the Congo). The local economy is currently diversifying.

The 2005/6 national poverty survey found that 41% of the rural population lives below the extreme poverty line. Lack of land, poor soils, unpredictable weather and lack of livestock are the primary causes for poverty. Houses headed by widows, the landless, the sick, elderly people and child-headed households are the most vulnerable to extreme poverty.

Land in Rwanda is formally owned by the state except where it was under recognised traditional or leasehold tenure prior to 1962, or has been sold on a long lease. However in practice, most land is held under a variety of formal or customary arrangements. In addition to ownership, there is a market for short and longer term rent of plots of farmland.

Several Government policies are directly relevant to how KivuWatt approaches land and resettlement aspects for the project because they affect how land is allocated and used. These policies include:

- Agricultural consolidation, which seeks to rearrange land and land management in order to consolidate plots;
- The Strategic Plan for the Transformation of Agriculture (PSTA), which targets sustainable production to increase household incomes and create food security;
- Land registration in which the Government is starting a process of systematic land registration nationwide; and
- The promotion of co-operatives, whereby the creation of cooperatives for agricultural production and marketing is encouraged.

PROJECT AFFECTED PERSONS (PAPs)

The KivuWatt project's on-shore sites are located on the outskirts of Kibuye Town. Gafurogogo village is closest to the MLS site and is where all the PAPs who previously rented land on the MLS site live. Luganda village is where several of those who previously rented land on the power plant site live.

A total of 7.3 hectares of land to be used by the KivuWatt project for the MLS and the Power Plant Site was expropriated by the Government. The 5.5 ha. plot (for the power plant) was cleared of farming activities in 2007. The 1.8 ha. site for the MLS was expropriated in 2009; these lands were used for small scale farming. A total of 39 project affected persons (PAPs) plus the Gashura Primary School were entitled to compensation.

As evidenced in records held by the District Administration, compensation was awarded by the Government as follows:

- 11 individuals were compensated for crops they cultivated on the power plant site. These individuals were tenants renting land on a short term basis for small scale farming.
- Compensation monies have been allocated for 1 land owner on the power plant site. However, compensation to this land owner will not be paid until the on-going legal dispute between family members about who should receive this compensation is resolved.
- 27 individuals were compensated for crops they cultivated on the MLS. All but two of these individuals were tenants renting land on a short term basis for small scale farming. Two PAPs had leasehold plots on the site.
- The Gasura Primary School held a lease on a part of the MLS and has been compensated for loss of land and found replacement land to lease using compensation monies. The school leased land, which was used for growing fodder for the school cow (as part of a government program to provide vulnerable school children with milk).

Total compensation for the MLS and the Power Plant Site amounted to RWF 23,954,252 or approximately \$40,739 (1USD = RWF588). The process of land acquisition and compensation undertaken by the Government in acquiring the land for the KivuWatt project was done in compliance with Rwandan law.

The process of land acquisition and compensation mainly complies with the lenders' policies and procedures given that the project design locates most activities conducted off-shore and minimizes the need for land; all users and uses of the land allocated for use by KivuWatt were enumerated and all compensation was fully documented; landowners were compensated for land, crops, etc. and tenants were compensated for crops, etc. according to an explicit entitlements matrix; and the compensation process included consultation and grievance processes.

However, the land acquisition and compensation process does not meet the requirements of lenders in that people affected by involuntary resettlement should be at least as well off, or have an improved standard of living, than before the commencement of the KivuWatt Project. In some cases, the PAPs chose not to use compensation payments to acquire replacement land but spent it on improving their houses or buying essential items instead. Land is scarce and expensive in the project area, and some PAPs who sought replacement land were unable to find any that they could rent with the money they received in compensation. The PAPs also confirmed that they did not benefit from any advice on how to use their compensation money. To ensure full compliance with the lenders' requirements relating to involuntary resettlement, KivuWatt committed to taking action to improve the livelihoods of the PAPs through the development and implementation of a Supplementary Compensation Plan (SCP).

CONSULTATIONS

From the onset, public consultations have remained a key feature of this project. Both KivuWatt and the District authorities have undertaken various consultations with PAPs who previously used the land now allocated to KivuWatt.

For its part, the Government undertook consultations to explain to the PAPs that land would be expropriated and assets would be surveyed. Through the consultations, the Government explained the compensation process, including the compensation amounts and procedures leading up to compensation payments.

KivuWatt undertook consultations in December 2008 and January 2009 as part of the ESIA process for the project. These consultations served to inform the affected communities of the project's environmental and social impacts and to gain their perspectives and concerns. KivuWatt conducted a baseline survey on the small scale farmers who had rented land on the MLS site in 2009. Meetings were held in August 2010 with several PAPs, who were compensated on the MLS or power plant/access road site, in order to better assess the impacts of expropriation and understand the farmers' broad preferences for income restoration; meetings were also held with District and Sector authorities to understand the compensation process and current land use and agriculture policies and programs in the Kibuye area.

Recent consultations with the PAPs revealed that the land from which they were displaced was not their sole source of income or subsistence. They confirmed that they had received the compensation amounts due to them by the District authorities. However, most of them had not used the compensation payments to rent other land. In losing access to the land, the PAPs were now compelled to buy some or all of their food. One of the PAPs belongs to a household which is now completely landless. As a consequence, the PAPs' livelihoods were determined to be worse. What emerged during recent consultations as key priorities for the PAPs, given their current circumstances, was the need to acquire additional land for cultivation and to secure stable employment.

On the basis of these recent consultations, KivuWatt has made a voluntary commitment to develop a SCP for PAPs that were economically displaced as a result of the two sites that KivuWatt has leased. The SCP will serve as the primary component of the Abbreviated RAP. The SCP will provide one-off, targeted assistance designed to assist the PAPs to improve their livelihoods on a sustainable basis.

Currently, KivuWatt is half way through a process of consulting with PAPs on the idea of implementing a supplementary compensation programme, and on the PAPs' priorities and preferences for the shape and content of the programme. PAPs have voiced strong support for the concept of assistance from KivuWatt in setting up and providing resources to new income earning co-operatives. A range of different ideas have been proposed to-date by PAPs about the type of activities these cooperatives could engage in. This consultation is on-going and will result in a defined and detailed program for the SCP.

The SCP will benefit from a continuous and participatory consultation process, which is an integral part of the KivuWatt project. Additional consultations are planned and will supplement previous consultations that have been held. KivuWatt will continue to consult individually with PAPs on their participation in the SCP to define appropriate modalities to engage the PAPs in the SCP. These consultations will serve to ensure that the specific needs of the PAPs are catered to based on the nature of the economic displacement the PAPs have experienced. These consultations will ensure that the appropriate livelihood enhancement options are created under the SCP. KivuWatt will seek to establish a Kibuye Community Forum, which will include representatives of the local administration and the community (including PAPs) to advise on the SCP. The Kibuye Community Forum will facilitate the PAPs' ability to ensure that the project remains responsive to their needs.

GRIEVANCE MECHANISMS

Rwandan law provides for an appeals procedure in relation to expropriation and compensation. The Government has confirmed that there were no grievances related to the expropriations for land now occupied by KivuWatt other than one complex intra-family dispute about who should receive the compensation monies. This dispute is being handled through the Rwandan courts and the compensation monies will be paid after the court makes a judgment.

The KivuWatt Power Project includes a grievance mechanism. In relation to KivuWatt's SCP, any grievances will be managed through KivuWatt's Community Relations and Grievance

Management Procedure. Grievances related to the SCP will be recorded separately to facilitate monitoring of the Abbreviated RAP. KivuWatt's Community Liaison Officer is responsible for recording any complaints and bringing them to the attention of KivuWatt management. The Community Liaison Officer is mandated to work with KivuWatt and the local administration to find a suitable resolution. The Kibuye Community Forum will assume a critical role in representing the PAPs. The Kibuye Community Forum can be consulted if a resolution cannot be reached on grievances.

SUPPLEMENTARY COMPENSATION PLAN

The development of KivuWatt's Supplementary Compensation Plan (SCP) has been informed by the needs, perspectives, and interests of the PAPs in directly addressing the implications of the economic displacement they have experienced after receiving their compensation payments. The SCP will support livelihood enhancement for economically displaced PAPs and improve their livelihoods such that they can be better off than before the displacement took place. KivuWatt is also committed to developing and implementing a Community Development Programme (CDP) that will assist residents of the Kibuye area to improve their livelihoods. The CDP will consist of agricultural projects, including the establishment of co-operatives to grow tomatoes for the commercial market (including KivuWatt) and possibly small-scale fish farming in Lake Kivu. KivuWatt's SCP will be implemented alongside the CDP, and PAPs will be given first priority to participate in the CDP.

Through the SCP, KivuWatt intends to offer some supplementary income restoration support to all tenants who lost access to land on the MLS and the Power Plant Site. Participation in income generating projects that KivuWatt will establish as part of the CDP will play a key role in the income restoration support; these income generating projects include the fish farm and greenhouses for the intensive production of tomatoes and other vegetables. KivuWatt will offer supplementary compensation to Gasura Primary School out of recognition that though the school was provided with replacement land, it incurred out of pocket expenses which were not compensated for. The SCP will offer other options for livelihood enhancement, such as employment opportunities during construction for PAPs with appropriate skills; financial assistance to cover the cost of renting replacement land if any PAPs can identify such land on the private rental market; financial assistance in purchasing cows, goats or chickens where people have fodder available; financial assistance in securing fertiliser or other farm inputs; and financial assistance to PAPs seeking to undertake training programs (such as those being offered in the government IT centre being established in Kibuye).

Consultations with the PAPs have revealed their strong interest in the SCP. KivuWatt will ensure that initiatives taken under the SCP are agreed in principle with the local authorities prior to negotiation with the PAPs. KivuWatt will seek in good faith to negotiate with each PAP an appropriate and acceptable one-off supplemental benefits package, which will include one or more livelihood enhancement options covered under the SCP. KivuWatt will coordinate with existing government livelihood and income generation programmes such as 'one cow per poor household', agricultural intensification, etc., throughout the course of implementing the SCP.

INSTITUTIONAL RESPONSIBILITIES

Overall responsibility for implementing and monitoring the Abbreviated RAP, including the SCP, lies with KivuWatt. KivuWatt's Country Manager will play a key role, and he will be supported by KivuWatt's consultants, SKM and JSL Consulting. Existing KivuWatt staff will support the Country Manager. The Environmental Health, Safety and Social Performance (EHSSP) Manager (who is currently being recruited) will take over day-to-day responsibility, reporting to the Country Manager. KivuWatt's Construction Manager and the EPC contractor, Civicon, are responsible for ensuring that PAPs are given priority in employment opportunities during construction. Audits, indicators, a livelihood impact study, and other measures will be employed by KivuWatt in monitoring the progression of the Abbreviated RAP.

The success of the SCP hinges on close collaboration between KivuWatt and external partners, such as the local government and non-governmental organizations. These partners are currently being identified to assist in the implementation of specific components of the SCP, such as inputs and training to increase agricultural productivity and the establishment of a community income-earning greenhouse.

IMPLEMENTATION TIMEFRAME

The Abbreviated RAP will be implemented from 2010-2016, though the majority of the activities will be implemented from 2010-2012. Activities under the Abbreviated RAP include locating the PAPs within the Kibuye area; consultations with the PAPs and the local administration on the feasibility and acceptability of the SCP; conducting ongoing consultations; the establishment of the Kibuye Community Forum; the development and further refinement of the livelihood enhancement options under the SCP; the development of individual supplementary compensation packages for the PAPs; negotiations on the individual supplementary compensation packages, reporting; and monitoring.

KivuWatt expects to complete the implementation of the SCP by the end of 2012. Three years after Phase 2 comes into operation (or three years after Phase 1 comes into operation if Phase 2 does not go ahead), a study assessing the overall impact of the project on local livelihoods will be undertaken. This study will evaluate the SCP, the CDP, and direct employment and indirect employment opportunities created by the project.

BUDGET

The estimated budget for the Abbreviated RAP amounts to \$300,000. The budget will cover the implementation of the SCP, consultant fees, the livelihoods impact study, and monitoring and evaluation activities. As KivuWatt will assume overall responsibility for implementing and monitoring the Abbreviated RAP, KivuWatt has already allocated all of the necessary budgetary resources.

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