



# VERSION 2 REMEDIAL ACTION PLAN FOR AKIRA GEOTHERMAL LIMITED

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# 1 BACKGROUND AND CONTEXT

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## 1.1 Purpose and Objectives

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This document is the updated version of the Remedial Action Plan (RemAP-2). The update has been necessitated following the grievance redress process that occurred since the publication of the previous report in November 2022 and reflects the current status of remediation efforts, up until the end of February 2024.

It is intended to be read in conjunction with the Resettlement Policy<sup>1</sup> Framework dated July 2022 and the 2022 RemAP-1<sup>1</sup>, which was initially developed as a high-level framework to identify the eligibility and entitlements of affected parties and to guide actions to be led by AGL to provide a remedy in relation to impacts associated with the eviction process in November 2019..

This document is not a full Resettlement Action Plan (RAP) according to either International Finance Corporation (IFC) or European Investment Bank (EIB) Standards and does not contain detailed compensation packages, or implementation steps, budgeting, or resource requirements against a timeframe.

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## 1.2 Area context and historical background

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The Akiira 1 Geothermal Ltd (AGL) site is located adjacent to and south of a resettlement area (RapLand) containing people displaced from other geothermal activities that bordered it on the north and west sides. RapLand is the closest source of public services such as water supply, education, health and local government administration, for neighbouring communities still living outside of the geothermal sites. As such it draws people into RapLand to use these when necessary.

Against the residents of RapLand's wishes, fence lines were put up 2 north and south of the residential area by Kenya Electricity Generating Company PLC (KenGen) limiting the passage of animals beyond the fence. By erecting these fences, KenGen has enclaved RapLand meaning that Maasai herders are only able to access pasture in the greater Kedong by crossing through AGL land. Surrounding the AGL Project site on all except its northern border is Kedong Ranch. Kedong Ranch is occupied by various groups of ex-employees and their families and associates. Their livelihoods are based on charcoal burning, casual work, and livestock herding. Cattle herders are mainly Maasai. Goat and sheep herders are from various other ethnic groups which historically have been pastoral and agricultural producers, and more recently, pursuing diversified livelihoods practices such as charcoal burning, small businesses, and employment.

The AGL Project site has been used by local people for grazing and for charcoal burning over the past eight years, as the pressure to access new land areas has increased and they have sought grazing and trees for charcoal increasingly higher up the Olkaria highlands. They also entered and used the natural resources inside and around the AGL Project Area. As can be seen by reviewing occupation and settlement patterns in the area, temporary housing was erected and occupied for various years until the resources in each location were exhausted. Encroachment with settlement on AGL land took place in two areas. One is known as Mlima Tatu in the west of AGL's land and another at a location referred to locally as Lorropil in the north of the site, adjacent to the RapLand settlement.

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<sup>1</sup> <https://frontier.dk/akiira-geothermal-project/>

<sup>2</sup> By KenGen.

The non-Maasai communities who lived and pursued their livelihoods in Kedong Ranch and AGL lands were not permanent settlers but moved from place to place in search of trees that they could burn to make charcoal. The Kambi Turkana leaders noted that their community settled in their current location (Kedong Ranch) after the Maasai were resettled in RapLand. According to these leaders and Mlima Tatu community, the first permanent settlement created on AGL land was Mlima Tatu. The Mlima Tatu settlement is known locally as Ndonyoni or Lorengelup (in Turkana language this means a place with red soil), and the settlers may have established some form of permanent presence in the area. The Lorropil settlement was created much later than Mlima Tatu and the first settlers were all men who were involved in charcoal burning. Members of both communities built upright houses made of wooden sticks and polythene sheets. These structures were erected after the Maasai community was resettled in RapLand. In the past and due to the migratory nature of these communities, they built temporary houses made of polythene sheets which would be hoisted above gaps in bushes and would provide shelter overnight or when it rains.

There is a perception among Maasai communities that the presence of non-Maasai communities living in Kedong Ranch and close to AGL, creates competition for resources and opportunities that can be obtained from the geothermal companies in the area e.g. jobs, corporate social responsibility (CSR) programmes, etc. Further compounding the existing tensions in the project area, Kedong Ranch has proposed to resettle the Kambi Turkana community on a parcel of land adjacent to AGL's Pad 2 which means that any future activities that AGL may undertake in Pad 2 would have to take into consideration the non-Maasai communities who will be its immediate neighbour, these activities may include identification of new E&S risks and impacts that may affect the Kambi Turkana community.

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### 1.3 Project context and changing dynamics.

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AGL drilled two exploratory wells on its 1,000-acre site in 2015. Skilled employees for this drilling programme came from various parts of Kenya. During the pre-drilling phase AGL employed local security service providers. It also employed two locally hired CLOs who since 2014 have represented the company to its neighbours in RapLand and south around Kambi Turkana in Kedong/Akiira Ranch. They, together with AGL security staff have been the company-community interface during periods when there are no drilling exploration activities.

AGL's site was acquired from Kedong Ranch – the owner and manager of Kedong and Akiira ranches. Kedong Ranch has sold parts of its land for geothermal, logistical and other industrial development. This trend is likely to continue, seeing Kedong sell off more and more land that is not being used commercially. Kedong land (including AGL's acquired area) was part of a claim by Suswa Maasai that the land was historically theirs. They cited adverse possession, but the case was struck out in court in 2014.

AGL's 2015 Stakeholder Action Plan took this sensitive context on board, it considered the other geothermal companies' stakeholder engagement plans and identified its affected communities to be 'those that are likely to be affected by the impacts of geothermal development including hydrogen sulphide (H<sub>2</sub>S), noise, influx of vehicles and people.' Most of the affected communities according to the Stakeholder Action Plan<sup>3</sup> 'will be within a radius of 5km from the Akiira One Geothermal Company Limited project area'. Suswa was also included as a key community of stakeholders lying outside the impact radius. The four community committees identified as representatives of the Project affected people (PAP) for engagement purposes, were composed exclusively of Maasai. This was based on AGL's understanding of the ambivalence of Maasai relations with other non-Maasai groups living in the area and the former's expressed historic claims to the area.

Pre-2019, neither RapLand nor Akiira had fences and access to resources and services was open. Maasai community maintain their perception of exclusivity of rights to recognition and legitimacy concerning historical entitlement and losses of land and resources in relation to all non-Maasai, including the geothermal companies today.

Satellite images of the location in AGL land called Lorropil, on the border of RapLand, show that the settlement initiated, as the areas adjacent to it in RapLand and on the Kedong/AGL land were vacated during the construction of RapLand. An influx onto the AGL land then took place during the 2019 drilling campaign.

In July 2019, 4,000 acres of Kedong Ranch were awarded to Kitet-Sossion Maasai in an out-of-court settlement by Kedong. While publicly seen as recognition of local people's rights, allegedly this land has been taken by non-local Maasai, further aggravating the local Maasai.

The regional and county government officers reportedly referred to the mixed groups resident on Akiira / Kedong Ranch as 'squatters. Asserting squatters' rights and claiming adverse possession<sup>4</sup> in this area has only been carried out by Maasai groups using the legislation to vindicate access to their ancestral rights to the land in Kedong for over 10 years<sup>5</sup>. No non-Maasai squatters have made such claims. Akiira project land encroachers at Lorropil and their advocates suggested to the Deputy County Commissioner (DCC) that they were entitled to compensation. According to independent testimonies from the Turkana Community Spokesman, their Advocate, the encroachers themselves and the RapLand Maasai, Lorropil

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<sup>3</sup> Annex V. Akiira Geothermal Limited Stakeholder Action Plan, in Akiira Geothermal Limited (AGL), Environmental and Social Impact Assessment for the Akiira Geothermal Power Plant in Naivasha Sub County, Nakuru County, Draft Final by ERM, May 2016.

<sup>4</sup> See the Limitation of Actions Act Cap 22 of the Laws of Kenya, Section 13 for adverse possession claims.

<sup>5</sup> Including Petition N° 57 of 2014, High Court of Kenya, Nakuru (Parkire Stephen Munkasio & 14 others living on land reference no.8396 (i.r 11977) situated in Kedong) v Kedong Ranch Limited & 8 others [2015] eKLR) that unsuccessfully claimed 'lawful occupation of the said land on account of it being their ancestral land and communal land...(they) have acquired title to the suit land by adverse possession and/or prescription'.

and Mlima Tatu encroachers refusing to leave AGL land up to their eviction in 2019, were aiming to be compensated. To achieve compensation, their self-appointed public representatives (Turkana Community Spokesman and Advocate) tried to demonstrate their having lived for ‘a long time in the area’. In other words, he implied their status as ‘squatters’. The narrative from Maasai groups from RapLand and Suswa have continuously tried to discredit these claims as they perceive them to be illegitimate and competitive. To enhance their squatter rights, the communities in the area have legally established welfare groups which have been recognised by the regional government officers.

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## 1.4 Background to the Remedial Action Plan (RemAP)

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AGL has recorded its engagement with the settlers at the Lorropil site since drilling commenced in 2016. Throughout recorded quarterly community meetings from November 2017 onwards, AGL advised the representatives of the settlers that they should move and that they were not entitled to compensation. In April 2019 AGL made a particular request to the self-appointed representative of Lorropil to stop an influx of encroachers and questioned him on his suspected role in facilitating the influx. A follow-up meeting in May 2019 with Lorropil representatives confirmed AGL’s suspicions and from then up to the day of the DCC’s visit to Lorropil on 22<sup>nd</sup> June 2019 to give a verbal notice for them to leave or face eviction, AGL was present at meetings of the security team and with Kedong management to discuss the encroachers and plan their notification to leave.

Further revisions have been made on this version following grievance redress process and engagement with the stakeholders during implementation of the version 1 of the remedial action plan report.

Once AGL had completed conveyancing<sup>6</sup> of the 1000 acres of land, on 10th September 2019 it made a formal request<sup>7</sup> to the government to assist in removing people who had encroached on its land.

A second verbally transmitted eviction order on 12th September was reported in the media and was said to have been given by the DCC at his office.

A final notice was given on site on 28th October 2019 giving a week’s notice to vacate. Eviction was carried out reportedly by the police under instructions from the sub county security team. Some shelters were burned down on 3rd and 4th November 2019. Two weeks later, structures at the Mlima Tatu site were burned. Police from Mai Mahiu reportedly identified Kikuyu encroachers from Mai Mahiu among those evicted from Lorropil.

In an effort to get the opinion of the local community stakeholders, a meeting at AGL’s office at the end of January 2020 with five representatives from Suswa and six representatives of the RapLand community declared ‘broad community support’ for the Project.

Post eviction, the Chief’s Office in RapLand provided space to shelter people evicted from the Lorropil site with nowhere else to go. The local Chief’s Office in RapLand allowed those evicted from Lorropil to temporarily take shelter in the compound of in the-yet-to-be-occupied-office of the Chief which is located RapLand and adjacent to the Lorropil settlement. The Kenya National Commission on Human Rights (KNCHR) and Red Cross confirmed that they held interviews, after the evictions in Lorropil, at the Chief’s Office in RapLand.

Most of the people evicted from Lorropil (about 35 heads of households) were probably from Mai Mahiu, a town located on the Mai Mahiu – Naivasha Road and which is about 35 kms from Naivasha town. Humanitarian packs<sup>8</sup> were provided by the Red Cross to about 30 households.

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<sup>6</sup> On 22 August 2019.

<sup>7</sup> The request mentions earlier requests for support made to local government and visits by same to the site but these were not recorded as formal eviction orders.

<sup>8</sup> Red Cross provided two blankets, 1 kitchen set, 2 mats, 2 tarpaulins, 2 pieces of bar soap, 1 mosquito net.



Red Cross confirmed verbally to the consultant during interviews that about 26 households did not receive humanitarian support because the packs that had been prepared by the organization were insufficient to cater for all the individuals who claimed that they have been evicted from Lorropil. The individuals evicted from Lorropil with or without humanitarian packs from the Red Cross left soon afterward and carried these provisions with them back to their original residential areas or to local settlement sites such as RapLand, Kambi Turkana or nearer Naivasha.

In the case of people who had lived on the Mlima Tatu side of the AGL site, they removed their belongings before eviction, and many subsequently re-established their shelters just outside of AGL's southern boundary.

The present document is the Remedial Action Plan for the evictees from AGL's Akiira One project site.

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## 1.5 Consideration and limitations

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- The process of developing the initial remedial action plan (RemAP-1) involved various sequential field visits between August-December 2020, May-July 2021 and April-June 2022 that resulted from changes and amplification of scope of work.
- In addition, as more information was brought to light to the consultant about the status of the lists of potential project-affected persons (PAPs), especially those who had permanent residences outside of the greater Kedong Ranch, it was made clear that further assessments including interviews with PAPs who were settled at the government internally displaced camp at Mai Mahiu were required to determine access to remediation. The development of RemAP-2 is a result of several grievance redress meetings resolutions and agreements which have taken place since 2022.
- The main changes resulting from further assessments carried out by the consultant have been refinement of the eligibility criteria and alterations of the remedial actions required covering all eligible PAPs. As a result of the sequential field visits, the number of eligible PAPs rose to include five new claimants from Mlima Tatu.
- The recommendations on compensation in the RemAP-2, was based on the assumed inflation, and dollar fluctuations at the time of the agreement, and this may change.
- The new compensation amounts was only applicable to those who had not been compensated in the first round of compensations.

## 2 LEGISLATIVE FRAMEWORK

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### 2.1 Kenya Legal Framework

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Kenya's human rights obligations are enshrined in the Constitution of Kenya (CoK). The Bill of Rights, Chapter Four of the Constitution, guarantees a number of civil, political, economic, social and cultural rights, and these reflect human rights standards spelt out in international human rights law. Art. 20 of the Constitution indicates that the Bill of Rights applies to all law and binds all State organs and all persons (including business enterprises). Art. 22 provides access to remedy for any person who claims that a right or fundamental freedom in the Bill of Rights has been denied, violated or infringed, or is threatened.

The Constitution guarantees the right to property under Art. 40 and the Law edicts that, the State cannot arbitrarily deprive a person of their property (Art. 40 (3)). Art. 40 (4) indicates that provision may be made to compensate occupants in good faith of land, who have been deprived of their property after the acquisition of land, even if the occupants may not have title to the land. Article 43(1)(b) provides that 'every person has the right to accessible and adequate housing and reasonable standards of sanitation'.

Specific provisions have been made on environmental and land rights which are spelt out in Chapter Five. The Constitution defines three classifications of land – public land which is governed by Art. 62; community land whose provisions are guaranteed in Art. 63 and private land which is spelt out in Art. 64. To implement the provisions of Chapter Five, the National Assembly has enacted land related legislation such as the Land Act, 2012 and the 2016 amendments; the Land Registration Act, 2012; Community Land Act, 2016; and the National Land Commission Act, 2012.

Eviction procedures have been redacted in the Land Laws (Amendment) of 2016 and Regulation of 2017. Eviction is only legal if it follows these procedures. Lawful eviction procedures provide for appeal by notified people to the court to stay an eviction. If just cause is found to be 'historical land injustice' remedies are recommended. The decision of the court is based on the legality of the notification procedure executed, as well as of the claims. The court can protect affected parties from forced eviction.

Kenya Land Policy advocates the government's role in inventorying all squatters, negotiating, and facilitating the regularization of settlements or resettlement with tenure security as appropriate. Squatters hold rights of ownership to land after open, undisturbed, and continuous occupation of the land for 12 years from the time the registered proprietor learns of the invasion. They may make a legal claim of ownership based on 'adverse possession' for the land they occupy.

The Trespass Act (L.N.1964, Rev 2012) provides for the owner or police to arrest trespassers without a warrant but they should proceed to the magistrate immediately following the arrest. The court may convict and order the trespasser to leave within a specified period. Failing to follow the order, the court authorises an administrative or a police officer to remove the person and belongings<sup>9</sup>.

In September 2021, Kenya become the first African state to develop a National Action Plan on Business and Human Rights (BHR NAP) 2020-2025. The Kenya NAP was formally approved by the National Assembly and provides a regulatory framework for BHR, in accordance with the United Nations Guiding Principles on Business and Human Rights (UNGPs). The Kenya NAP stipulates national policy priorities on BHR, with a focus on five substantive themes: (1) Land and Natural Resources; (2) Revenue Transparency; (3) Environmental Protection; (4) Labour;

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<sup>9</sup> Thus, when a private landowner asks unlawful occupiers to leave, repeatedly, and they do not, the owner can : 1. Take them to court as trespassers, where penalties and eviction could be found necessary, applied for, then ordered formally; or 2. Using a formal document (Form LA.57) directly serve them notice to vacate within at least 3 months, after which period, the next formal action to remove them would be eviction according to legal procedures.

and (5) Access to Remedy. It also contains policy actions for each of the three pillars of the UNGPs (i) the State's duty to Protect Human Rights, ii) Corporate Responsibility to Respect Human Rights and iii) Access to Remedy. Access to effective remedy is underlined since businesses in Kenya were found to rarely identify the human rights risks of their activities and either mitigate or avoid them. If harm occurred, they were thus unable to ensure that the victims had access to effective remedy – whether the government was protecting their human rights. The NAP recommends corporate human rights policy commitments, the realization of human rights due diligence, reporting, and cooperation with relevant stakeholders to facilitate remedies for business related human rights violations. It constitutes the Government's most important commitment to nationally moving towards establishing compliance with these international human rights standards.

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## 2.2 International Human Rights and EIB standards

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International good practice and Kenya's Constitution and legislation protects against forced eviction resettlement' and provides for the need to AVOID and where avoidance is not possible guarantee the right to REMEDY as follows:

The Kenyan Government is required to protect the rights and freedoms of its citizens through adopting legislative means to affect these rights<sup>10</sup> by virtue of the fact it has ratified:

- The International Covenant on Economic, Social and Cultural Rights (ICESCR) – this governs for the right to an adequate standard of living including adequate food, clothing and housing (Art.11), right to health (Art. 12), education (Art. 13) and work (Art. 6.1),
- The International Covenant on Civil and Political Rights (ICCPR) – which governs the right to an effective remedy (Arts. 2.3 and 26), and
- The regional African Charter on Human and Peoples' Rights; and
- The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention).

Art. 2 (5) and (6) of the Constitution also provide the basis for the recognition of international law as forming part of Kenyan law. This means that international human rights standards that have been ratified by the Government form part of the laws in Kenya and the Judiciary is able to apply these international instruments when adjudicating matters before the Courts.

On this basis, when assessing evictions, the requirements of the International Covenant on Economic, Social and Cultural Rights (ICESCR) (Art 11.1); the Convention on the Rights of the Child (Art.27.3), and the Convention on the Elimination of all Forms of Discrimination against Women discrimination Art.14.2(h), are applicable.

General Comment No 711 which is an interpretation of the right to adequate housing as guaranteed in Art. 11 (1) of the ICESCR and adopted by the Committee on Economic, Social and Cultural Rights (CESCR),clarifies that use of the terminology 'forced eviction' seeks to convey the sense of arbitrariness and of illegality<sup>12</sup>, and states that where evictions are deemed to be justified, States must ensure that they put in place all safeguards and due process

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<sup>10</sup> Regional human rights mechanisms such as The African Commission on Human and Peoples' Rights, through the consideration of articles 14, 16 and 18 (1) of the African Charter on Human and Peoples' Rights and the Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights have condemned forced evictions - See, for instance, the Social and Economic Rights Action Centre and the Centre for Economic and Social Rights v. Nigeria, communication No. 155/96, Judgement of May 2002.

<sup>12</sup> General Comment No 7 defines forced eviction as 'the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.'

requirements<sup>13</sup>. This includes the right to a remedy and to judicial or other accountability mechanisms, including mechanisms to challenge the reasons for the forced eviction. General Comment No 7 provides that evictions should not result in homelessness or rendering individuals who have been evicted vulnerable to violation of other human rights. The State is required to take all appropriate measures to ensure alternative housing, resettlement, or access to productive land.

The UN Basic Principles and Guidelines on Development-Based Evictions and Displacement (A/HRC/4/18) present the human rights implications of development-linked evictions and offers rights-compatible guidelines on how to carry out evictions. The Guidelines provide requirements on prior disclosure of eviction plans, opportunities for access to legal, technical, and other advice for affected persons and public hearing affording space for affected people to challenge the eviction decision and/or to present alternative proposals and to articulate their demands and development priorities.

To remedy violations of human rights, the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law<sup>14</sup> distinguishes five forms of reparations.

- **Restitution:** restores the victim to the original situation before the violation occurred. It includes restoration of liberty, enjoyment of identity and citizenship.
- **Rehabilitation:** includes medical and psychological care.
- **Compensation:** provides money for damage suffered.
- **Satisfaction:** includes official declarations restoring dignity and reputation, public apology, commemoration and tributes.
- **Guarantees of non-repetition** includes structural measures that will prevent reoccurrence of the violations.

Article 8 of the Universal Declaration of Human Rights (UDHR) and the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross violations of International Human Rights Law and Serious Violations of International Humanitarian Law, states that a proper remedy for forced evictions is to return the victims as close as possible to the status quo ante.

The EIB's Environmental and Social Sustainability Framework Standard 6 is guided on the matter of forced evictions by the UN Commission on Human Rights, forced evictions, 10 March 1993, E/CN.4/RES/1993/77. It promotes the use of international procedural protections against forced evictions as outlined in the UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 7: The right to adequate housing (Art.11.1): forced evictions, 20 May 1997, E/1998/22, and the UN Basic Principles and Guidelines for Development-based Evictions and Displacement.

These standards are also echoed in IFC Performance Standard 5 that encourages the avoidance of forced eviction and should involuntary physical displacement from homes/land occur and associated loss of livelihoods is unavoidable, then the protection of the rights and interests of affected people should be included in a resettlement plan or livelihood restoration plan that meets IFC standards.

<sup>13</sup> General comment No. 7: The right to adequate housing (art. 11 (1) of the Covenant): Forced evictions, paragraphs: 3 and 9.

<sup>14</sup> Resolution 2005/35 (UN Doc. No. E/CN.4/RES/2005/35 (2005)) and GA Resolution 60/147 (UN Doc. No. A/RES/60/147 (2006))

### 3 GAPS IN THE PROCESS REQUIRING REMEDY

#### 3.1 Action which amounted to forced eviction.

The process was considered a Forced Eviction since it fell short of the requirements of either Kenyan law or international good practice in several ways:

- *Discriminatory stakeholder engagement.*
- *Inadequate written notice prior eviction.*
- *Failure to initiate and implement legal trespass case.*
- *Lack of opportunity to appeal.*
- *Failure to protect children's right to education after eviction.*
- *Failure to protect PAP's property in the absence of alternatives being provided or planned to meet these people's rights to housing, dignity, health, safety and security and education, and.*
- *No post-eviction measures.*

#### 3.2 Gaps against Kenyan law and Good Practice standards

The gaps against Kenyan law or international standards from these actions triggering the right to Remedy are elaborated below and summarised in Table 3-1.

**Table 3-1: Summary gaps against legal due process and international standards in forced eviction**

Human rights and legal due process non-compliance by AGL	REMEDIAL ENTITLEMENT	ACTIONS IN LINE WITH INTERNATIONAL LAW
<b>Discriminatory stakeholder engagement</b>	Inclusion in stakeholder engagement with proportional access to benefits from the project	Revise and update the Stakeholder Engagement Plan, and subsequently develop inclusive action plans
<b>Provision of adequate (written) notice before eviction</b>	Shared understanding of roles and responsibilities private: public sector	Develop a Resettlement Policy Framework with guidance on avoidance, roles, and responsibilities.
<b>Opportunity for appeal to stay an eviction</b>	Increase awareness of rights and obligations	Develop a Resettlement Policy Framework with guidance on avoidance.
<b>Destruction of housing and loss of limited personal property during the eviction</b>	Compensate for loss of personal property at replacement value	Ensure replacement of losses with a monetary amount to guarantee replacement value
<b>Loss of protection from eviction (dignity, health, safety and insecurity)</b>	Avoid repetition of forced eviction	Develop a Resettlement Policy Framework with guidance on avoidance.

	Promote the protection of interests of women and their children	Develop and implement a Remedial Action Plan
<b>Loss of access to education because of impact</b>	Ensure that all the students have access to schools	Follow up and confirm that all students have access to schools
<b>No post-eviction measures</b>	Meet the needs of evictees, livelihoods, and other impacts sustainably remediated, security of site and tenure.	Assess status and design compensation and livelihoods restoration packages commensurate with losses.  Develop and implement a Remedial Action Plan

## 4 IMPACTS AND ELIGIBILITY REMEDIATION

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### 4.1 Impacts to eviction

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The following section describes the history and gives commentary on the impacts of the eviction process that have been identified through engagements with affected PAPs in each location.

Given this document is *not a Resettlement Action Plan* and therefore no household level socio-economic survey and baseline or livelihood assessment was possible within the limited scope of this assignment, eviction impacts are not quantified or described in detail per household. The assessment of impacts/requirements for remedy has been based on verbal reports and stakeholder engagements and interaction, as well as an observation made by Consultant's social specialist whilst on site and the Resettlement Policy Framework.

#### 4.1.1 History of eviction and impacts affecting Lorropil

Although all households experienced eviction, their losses differed slightly and their family size, livelihoods sources and current residence and occupation contributed to a) identification of the generic types of remedy required, and b) the kinds of package of options that meet the entitlements.

Of the 31 households who moved during the influx, who were evicted from Lorropil but who already had: a) a primary residence at another site at the time of the eviction; and b) been at the Lorropil site only during 2019: It is assumed that the majority would have been inconvenienced by the eviction in terms of the indignity suffered, and the lost opportunities at their home bases which they had willingly left as well as the need to pay for their return.

#### 4.1.2 History of and impacts affecting Mlima Tatu

Mlima Tatu was affected by two evictions that were carried out in 2019. The first eviction was carried out by the Kenya Forest Service (KFS) officers and security guards employed by Kedong around August 2019. In this first eviction, 48 houses in Mlima Tatu which were located on Kedong and AGL land were affected. After the eviction, the settlers in Mlima Tatu, rebuilt their houses in the same area. During the second eviction, the Mlima Tatu houses that were on AGL land were burnt by Kenya National Police Service (NPS) officers drawn from Kongoni Police Station in November 2019. In the second eviction, the only houses that were burnt were those on AGL land.

Of the 18 households identified as being eligible for compensation, four moved out of Mlima Tatu after the second eviction incident and moved to Kambi Turkana.

14 households did not move from the Akiira-side of Mlima Tatu but instead rebuilt their houses in the same location on the Akiira Side. This was the second time that these settlers rebuilt their houses in the same location. After rebuilding a second time on Akiira land, the AGL security supervisor went and spoke to the settlers and asked them to move out and on to Kedong Land, which they did. Eleven of the settlers moved to Kedong land. Of these eleven households, four have permanent residences in Governor's Camp.

During the November 2019 eviction, the NPS officers started the process of burning houses in Lorropil which is on a higher level than Mlima Tatu. The Mlima Tatu settlers were able to see the burning houses and were also informed that the police would proceed to their settlement, after burning the houses in Lorropil. The residents were able to move their belongings out of their houses before the eviction and the police only burnt the structures of the houses.

Of the 14 households affected by the evictions, six are headed by women. Of these households, a single mother who has a two-year old child at the time of eviction, the child is now four years

old and is currently in nursery school. One vulnerable household was identified - a married couple who are in their 80s and unable to work.

Of the 14 households, six may be willing to leave Kedong if offered better opportunities outside this area. The elderly couple in their 80s may not be willing to leave Kedong. This may be because they were from Turkana County and left the area over 60 years ago without returning. Due to this, the only place that they feel able to call home is Kedong. The other household is headed by a woman with adult children and her children have since moved out of Kedong. This woman has options of leaving this area but has not yet done so. It may be that she is unwilling to leave Kedong.

## 4.2 Eligibility and Entitlements

This section describes the proposed eligibility criteria that were developed after site visits to the project area in 2021 and 2022 and the identification of the PAP's affected by the evictions that occurred in November 2019.

### 4.2.1 Eligibility criteria

**Table 4-1: Eligibility criteria**

Eligibility Factor	Criteria
1	Cut-off date and length of residence (over one year and up to five - indicating permanence) with the cut-off date being 22nd June 2019, when the first verbal notice to leave was given by the DCC and names of affected people in Lorropil were documented. For Mlima Tatu no identification of affected people was made by the government and the cut-off date is fixed at 17 November 2019, the date of the eviction.
2	Housing destroyed during eviction.
3	Presence at the time of physical eviction in November 2019
4	Witness validation (at least two witnesses) of presence at the settlement during specific residential periods and eviction events plus physical evidence where possible i.e. burnt homes and matching cross-referenced testimonies and for some, witness validation of permanent residence elsewhere.
5	Only permanent residence of the PAP is at the eviction site.

### 4.2.2 Method of determination of eligibility

The methodology for developing the criteria and determining eligibility is as follows:

- *Individual screening was carried out by the consultant to identify forcibly evicted PAPs. This process required engagement and review of the process leading up to and following evictions.*
- *Five eligibility criteria for entitlement to remedy or reparation were developed (section 4.2.1).*
- *Eligibility was considered based on meeting all or at least four of the five criteria outlined. Criteria 1, 2, 4 and 5 apply to all. Criterion 3 does not apply to the Mlima Tatu residents who abandoned their homes taking their belongings with them before the eviction team arrived on-site; and,*
- *All PAPs claimants have been assessed for their eligibility to different types of remedies based on these criteria.*
- *Where there are still uncertainties around eligibility, AGL will follow up and confirm.*

Once eligibility is determined the specific type and package of remediation should be negotiated per PAP based on individual status pre-eviction.



This could imply in some cases a full package aiming to ensure shelter, security of tenure as required by Frontier's Environmental and Social Management System<sup>15</sup> and to discourage PAPs from returning onto AGL land, and appropriate livelihood restoration options.

Alternatively, for people who were evicted but who had come to the site in the second quarter of 2019 to make false compensation claims, at least monetary assistance should be offered to cover their return to their homes and compensation for the temporary loss of dignity and homelessness caused by the forced eviction.

#### 4.2.3 Lorropil Eligibility criteria

The original settlers of Lorropil were 13 households confirmed by interviews with members and neighbours. In the second quarter of 2019 this figure grew to a confirmed 49 households. The national government representative carried out a census on 23 June 2019 and identified 44 individuals are residents of Lorropil. Through interviews with members from Kambi Turkana, consultant identified five individuals who did not appear on the list thus bringing the total number of households to 49[1].

Many of the new residents in Lorropil were former internally displaced people (IDPs) with permanent residences in Mai Mahiu (Governor's Camp) and had received compensation from the Government. These former IDPs had settled in Lorropil after reportedly been attracted by promises of compensation by the self-identified head of Lorropil village, and ex-policeman from Kongoni. This group and some of the original settlers reportedly formed a self-help group that was registered by the Government and subscription fees were reportedly collected by self-identified head of Lorropil village. The consultant determined that the collection of this membership fee was not illegal.

In terms of entitlements to remedy, of the total 49 individuals screened as allegedly evicted from Lorropil 44 were confirmed as evicted, consisting of 17 women and 27 men. Five (5) individuals who were included in the list were not affected by the eviction that was carried out.

**Table 4-2: Lorropil Entitled to Remedy**

Individuals living in Lorropil pre-2019	Male	Female
<b>13</b>	9	4
<b>Number of Influx Individuals</b>	Male	Female
<b>31</b>	18	13
<b>Total number of Individuals not entitled to remedy for eviction</b>		
<b>Moved out before the eviction</b>	Never lived in Lorropil	
<b>4</b>	1	

#### 4.2.4 Detailed Rationale for Eligibility at Lorropil

A total of 31 individuals reportedly came to the site induced by self-identified head of Lorropil village with the expectation that they would be compensated by AGL. He was supported by a female leader who came to Lorropil in late 2018 from Mai Mahiu. During subsequent visits conducted by the consultant in March and April 2022 to Mai Mahiu, and through engagements with the national government officials based at Mai-Mahiu, the consultant was informed that those evicted from Lorropil came from Governor's Camp<sup>16</sup>. This settlement is about five (5) km from Mai Mahiu town. According to the government officials, the residents of Governor's Camp are former IDPs are engaged in charcoal burning and farming activities in Kedong Ranch. Consultant was informed that the former IDPs are those who were resettled in the area after the 1992, 1997 and 2007 ethnic clashes that occurred in the Rift Valley.

The consultant received information from the government officials that the three settlements in Kedong Ranch – Kambi Turkana, Mlima Tatu and Lorropil, established self-help groups with the

<sup>15</sup> Frontier's ESMS is compliant with the IFC Standards, including PS 5 requiring follow-up after eviction to ensure that people are relocated to a place with security of tenure and livelihoods restoration opportunities.

aim of being recognised by the Government as squatters either on Akiira land (Mlima Tatu and Lorropil) or on Kedong Land (Kambi Turkana). In interviews with the leadership of Kambi Turkana, it was reported that members of the self-help groups are required to pay a subscription fee which is used by the leadership of the groups to facilitate their transport to various government offices when seeking support.

After initial meetings in which livelihoods were discussed, the two influential leaders avoided subsequent meetings to speak about entitlements. The consultant was informed that the 31 households were all from Governor's Camp however no engagements with this group were possible during the visits carried out in March and April 2022.

In the case of the original settlers, two traders who regularly sold goods in Lorropil and who had been identified on the DCC list of evicted people were confirmed to have lived in RapLand and Gichagi (a village near Suswa on Kedong Ranch) respectively, not Lorropil. These two traders were removed from the list of eligible people. In addition to the traders, one individual who moved out of Lorropil prior to the evictions was also removed. He said that he was involved in an altercation with his neighbours from Lorropil which resulted in his house being burnt and he later retaliated by burning all the houses in the settlement (earlier in 2019) after this disagreement with his neighbours, he moved out of Lorropil and was not affected by the November 2019 eviction because he had already left the settlement and was living elsewhere. As noted in table 4-2, the total number of eligible households would be 13.

#### *Full or partial entitlement to remedy*

- *Of the households living in Lorropil prior to 2019 eligible for remedy, 13 would be entitled to full reparations.*
- *All the evicted 31 influx households would be entitled to partial reparations due to having permanent residence outside of Kedong.*

#### **4.2.5 Mlima Tatu-Eligibility and Entitlement to remedy**

Of the 18 households, four households moved out of AGL land after the KFS evictions and were thus not affected by the evictions that occurred in November 2019. Three of the households who move out of AGL settled on the Kedong-side of Mlima Tatu while one moved temporarily to Kambi Turkana. One individual according to the Village Elder of Governor's Camp was confirmed to have a permanent residence in Governor's Camp. Based on the above the total number of households at Mlima Tatu that are considered eligible and entitled to remedy is 14. See Table 4-3 below:

**Table 4-3: Mlima Tatu Entitled to Remedy**

Individuals evicted from AGL land in Mlima Tatu area	Male	Female
14	8	6
<b>Total number of Individuals not entitled to remedy for eviction</b>		
<b>Never lived in Mlima Tatu</b>		
4		

#### **4.2.6 Detailed Rationale for Eligibility at Mlima Tatu**

The Mlima Tatu settlement pre-November 2019 was spread across Akiira and Kedong Ranch land. The total number of households that made up Mlima Tatu was 48 households as per the information the consultant received from the Chairperson of the Mlima Tatu self-help group. The settlement was affected by the following evictions.

- *Sometime in August 2019, Kedong and Kenya Forest Service (KFS) organised an eviction that affected all the households in Mlima Tatu. The houses were reportedly torched by KFS during this eviction. This information was confirmed to the consultant by the national government administration, the Kenya National Commission on Human Rights (KNCHR) and the local communities in the Kedong area. After this eviction, some*

*households moved from Akiira land and settled on Kedong land. Other households moved out of Mlima Tatu and moved to Kambi Turkana.*

- *The second eviction occurred in November 2019 and this eviction was carried out at the behest by the police on request by the Sub- County security team after AGL complaints. Prior to this eviction, households from the Akiira side of Mlima Tatu had been aware that an eviction was ongoing in Lorropil and they moved their belongings before the police reached Mlima Tatu and torched the houses.*

*Full or partial entitlement to remedy*

Of the 18 households, three of the households who moved out of AGL settled on the Kedong-side of Mlima Tatu while one moved temporarily to Kambi Turkana. One individual according to the Village Elder of Governor's Camp was confirmed to have a permanent residence in Governor's Camp. Based on the above the total number of households at Mlima Tatu that are considered eligible and entitled to remedy is 14.

Of the 14 households, all are eligible for full reparation.

The table below presents the eligibility scoring matrix which will be applied by AGL to inform the approach remediation:

**Table 4-4: Eligibility Criteria and Scoring & Entitlements Matrix**

Criteria (factors) contributing to eligibility	Details of criteria for eligibility (factors)	Factor #	Cash compensation	In-kind compensation	Additional assistance	Cash compensation
<b><i>The sum of factors defines eligibility thresholds:</i></b>			<b><i>Eligible households have a score between 15 and 7</i></b>		<b><i>Eligible households have a score of 6 or less</i></b>	
<b><i>1.Cut-off date for eviction: Lorropil: Households evicted from AGL land who had been resident for 1-5 years Mlima Tatu: Households evicted from AGL land (cut-off is the eviction date).</i></b>	1. Cut-off date and length of residence (over one year and up to five - indicating permanency) with the cut-off date being 22 <sup>nd</sup> June 2019. For Mlima Tatu no identification of affected people was made by the government and the cut-off date is fixed at November 17 <sup>th</sup> , the date of eviction.	<b>1</b>	Even if unable to prove sundry losses of property destroyed during eviction, an allowance for replacing basic household goods provided in cash.  Cash compensation may be given to the equivalent value of the replacement house if the household has already moved and built another house or is already re-building the structure.	Compensation for materials for a basic housing structure with corrugated iron for walls and roof.	AGL to assist vulnerable people to have access to their compensation by opening bank accounts and directly paying those who can't open accounts.  Any vulnerable people eligible for social assistance will be assisted to gain access to it.	A disturbance allowance will be provided to cover intangible losses.  Cash should be provided by the safest means (by bank transfer for the PAPs with ID Cards and AGL to facilitate payments for the PAP without ID cards) and amounts be kept confidential.
<b><i>2.Housing destroyed during eviction: Manyatta-style houses and reinforced shelters with flat or double pitched roofs</i></b>	2. Type of housing identified as upright structures with evidence of permanence (raised level of floor, walls strengthened against the weather).	<b>2</b>	A transition allowance will be provided.		A disturbance allowance will be provided to cover intangible losses including the delay in implementation of reparation.	Where households consist of a man / woman and spouse, both members of the family should be included in the payment scheme.
<b><i>3.Physical presence of the household during the eviction process</i></b>	3. Presence at the time of physical eviction in November 2019.	<b>3</b>	Cash should be provided by the safest means (by bank transfer for the PAPs with ID Cards and AGL to facilitate payments for the PAP without ID cards) and amounts be kept confidential.			
<b><i>4.Witness validation of historical occupation of the encroachment site or of existence of residential site elsewhere</i></b>	4. Witness validation (at least two witnesses) of presence at the settlement during specific residential periods and eviction events plus physical evidence where possible residence elsewhere.	<b>4</b>	Where households consist of a man and spouse, both named members of the family should be included in the payment mechanism.		All households should have access to an improved, no cost, confidential grievances resolution mechanism in which they can trust.	
<b><i>5.Households have no other permanent residence aside from the eviction site.</i></b>	5. Only permanent residence is at the eviction site	<b>5</b>				

## 5 REMEDIATION APPROACH

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Remedial action has been based on three categories described in section 5.3 below and their household based on the impacts experienced but broadly made up of the following components.

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### 5.1 Stakeholder Engagement Plan (SEP)<sup>1</sup>

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A workable SEP was prepared by AGL for the implementation of the RemAP. Engagements started with the disclosure of the RemAP, continued during implementation, monitoring, and evaluation. Each activity had its set of stakeholders ranging from Individual PAPs, community elders, relevant government officials (Deputy County Commissioner, Assistant County Commissioner, Chief, Assistant chiefs), Kenya Human Rights Commission Representative and Kedong management. Feedback from each engagement was documented by AGL for any follow up action and reference. Minutes were taken and signed by the stakeholders for reference. A clear stakeholders register which includes key stakeholders, contacts, designations and roles as defined in the SEP was prepared by AGL.

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### 5.2 Grievance Redress Mechanism

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This separate document was updated and approved in September 2022 during the implementation of the RemAP. Flyers on the Grievance procedure were prepared and distributed during the disclosure of the RemAP in public meetings held in the four villages discussed in section 5.4.1. Stakeholders were then sensitized on how best they can reach AGL in case of any issues, concerns, complains or grievances within one month and involved two public meetings per village. A clear timeline for registration of new grievances was indicated in the procedure to avoid further grievances after the implementation of the RemAP. Further discussions on grievances is presented in section 5.5

#### 5.2.1 Summarized AGL Grievance procedure

AGL follows a three-tier grievance procedure, as summarised in the sections below:



#### 5.2.2 Tier one: Community level

The Community level GRM is grounded on existing local dispute management models/mechanisms in the project area. It provides a forum whereby the Community and Project personnel listen to and resolve grievances. The GRM is spearheaded by Grievances Redress Mechanisms Committees (GRMC) established at appropriate levels. Establishing the GRMCs shall be done formally with a letter of assignment by AGL at the various levels.

The Committee is comprised of the following:

AGL represented by

- Frontier Energy ESG Manager
- AGL Social Expert
- AGL CLO's
- Area Assistant Chief

- Area Chief
- Five community committee representatives (gender balanced)

### 5.2.3 Tier two: Inter community Level.

This level handles grievances that involve general grievances affecting all villages and it comprises eleven members as below:

- Two representatives from Suswa
- Two representatives from Rapland
- Two representatives from Lorropil/ Kampi Turkana
- Two representatives from Milima Tatu
- Area assistant Chief
- Area Chief
- AGL CLO
- AGL Social Expert

This Committee elects its chairperson (whilst considering gender balance).

### 5.2.4 Tier Three: Sub county Grievance committee

The Sub County level GRMC is grounded on the mandate of the national government as an oversight of community development and harmonious co-existence between community and development projects. The Sub County GRMC will handle all the grievances escalated from Tier 1 and Tier 2. The composition will depend on the type of grievance if it involves a single village then only committee members from the village will be invited to the Tier 3 grievance process.

The Committee is comprised of the following:

- \* AGL represented by
  - \* Frontier Energy ESG Manager
  - \* AGL Social Expert
  - \* AGL CLO's
- \* Area Assistant chief
- \* Five representatives of the Lorropil Committee
- \* NGO representative
- \* Kenya National Human Rights Commission Representatives (KNHRC)
- \* Chief's representing Olkaria and Hellsgate locations.
- \* Assistant County Commissioner on behalf of County Commissioner.
- \* Five Committee members (represented by the Chairman and his Personal Assistant, Secretary, Women Representative, Youth Leader and representative of the elderly).

This is final level of AGL grievance resolution process.

### 5.2.5 Appealing the resolution

The Kenyan laws allow any aggrieved person the right to access justice through systematic administrative and judicial system. The Bill of Rights, Chapter Four of the Constitution, guarantees a number of civil, political, economic, social and cultural rights, and these reflect human rights standards spelt out in international human rights law. Art. 20 of the Constitution indicates that the Bill of Rights applies to all law and binds all State organs and all persons (including business enterprises). Art. 22 provides access to remedy for any person who claims that a right or fundamental freedom in the Bill of Rights has been denied, violated or infringed, or is threatened. If the complainant remains dissatisfied with any of the structured levels of the grievance mechanism, he or she has a right of appeal to any legal authority.

A complainant who is not satisfied with the response received despite having had the opportunity to request for further clarification or feedback, he/she has the right to make formal communication to the Chairperson GRMC stating the reasons for dissatisfaction. A complainant who is not satisfied with the response received from the Chairperson GRMC despite having had the opportunity to request for further clarification or feedback, he/she has the right to make formal communication to the Sub County level GRM stating the reasons for dissatisfaction.

*'A complainant who is not satisfied with the outcome after resolution of the grievance and communication from the Chairperson of Sub County GRM is advised to seek other judicial or administrative channels, including the Environment and Land Court (as provided in the Constitution of Kenya) or the Independent Accountability Mechanisms of lenders.'*

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## 5.3 Categorisation of PAP's

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As per chapter 4 categories of PAPs have been analysed and identified as follows.

### 5.3.1 Category one - Lorropil Community – 13 PAPs

This category lost everything during the eviction hence considered for the following:

- \* *Transition allowance*
- \* *Disturbance allowance*
- \* *Domestic household items*
- \* *Semi-permanent two room Mudwalled house with iron sheet roofing*
- \* ***Totalling Remediation amount per PAP – Kshs. 279,300***

### 5.3.2 Category two- Mlima Tatu – 14 PAPs

This category had removed their household items before the alleged burning of houses took place hence considered for:

- \* *Transition allowance*
- \* *Disturbance allowance*
- \* *Semi-permanent two room Mudwalled house with iron sheet roofing*
- \* ***Totalling Remediation amount per PAP – Kshs. 265,700***
- \*

### 5.3.3 Category Three- Lorropil Community – 31 PAPs

This category forms the population of influx who moved into the Akiira land between May/ June 2019 and already have permanent structures elsewhere. This category will receive a disturbance allowance. This category only received a disturbance allowance **of Kshs. 55,000 per PAP.**

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## 5.4 Remediation process in 2022

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A leaders' project disclosure meeting was held at Montana Hotel, Naivasha on 8th September 2022. Among the leaders who attended the meeting were representative from the office of the DCC Naivasha, NEMA, Civil society and one elder drawn from each of the four villages within the project area of influence namely Mlima Tatu, Lorropil, Suswa and Rapland.

The stakeholders were taken through the findings from independent consultant and updated on the AGL GRM. Feedback from the meeting has also been incorporated into this report.

### 5.4.1 Community Engagements

Four community disclosure meetings were held on different dates after the leaders meeting in the following villages:

- \* *Milima Tatu Community Meeting – 13th September 2022*
- \* *Lorropil Community Meeting – 15th September 2022*
- \* *Rapland Community Meeting – 20th September 2022*
- \* *Suswa Community Meeting – 29th September 2022*

The key objectives of the community meetings were disclosure of the independent consultant Remedial Action Plan (ref 0131-1803) report and the updated AGL GRM procedures.

AGL also took the opportunity to introduce Milima Tatu and Kampi Turkana as recognized project stakeholders going forward.

#### ***Milima Tatu Community Meeting – 13th September 2022***

The names of the PAPs were read out to the community and almost all the names read out were familiar community members but on the other hand many members felt left out in the list. They were advised to register their concerns with the AGL team following the new grievance procedure.

#### ***Lorropil Community Meeting – 15th September 2022***

The community identified most of the names read under category one but rejected those under category three. Their concern was noted and AGL informed those who were not satisfied to lodge grievances.

#### ***Rapland Community Meeting – 20th September 2022 and Suswa Community Meeting – 29th September 2022***

All the PAPs in the remediation list were drawn from Milima Tatu and Lorropil, the community meetings held in Rapland and Suswa were for information sharing and feedback. These two communities appreciated the move to close out the long withstanding grievances from the eviction which they felt has dragged the project. They promised full support to the project with hopes that drilling will resume, and the community will enjoy benefits associated with the project.

### 5.4.2 Individual PAP engagements

After successful engagements with key stakeholders, individual PAPs were met and informed on their specific entitlement. Disclosure and acceptance forms were signed by each PAP after the successful engagements. AGL partnered with Equity bank in providing financial management training and opening of bank accounts for each PAP. Some PAPs lacked National Identity cards and couldn't open bank accounts, AGL opened a joint account managed by its social specialist where money for those who couldn't open accounts was channelled through.

After successful opening of bank accounts, the money was paid, and each PAP signed a payment acknowledgment form. At Milima Tatu 13 out of 14 eligible PAPs under category 2 were remediated. One (1) PAP was not identified and has not been traced to date.

At Lorropil 10 out of 13 PAPs were remediated under category one, and one PAP was remediated under category 3. The rest of the PAPs rejected remediation and recorded grievances.

### 5.4.3 Total cost of remediation 2022



During the first round of payments 10 PAPS under category 1, 13 PAPs under category 2, and 1 PAP under category 3 were remediated.

**Table 5-1: Total cost of Remediation payments in 2022**

Name of village	Category	Number of PAPs	Cost in Kshs	Cost in USD@120/KES
Lorropil	1	10	2,793,000	23,275.00
Mlima Tatu	2	13	3,454,100	28,784.17
Lorropil	3	1	55,000	458.3
<b>TOTAL</b>		<b>24</b>	<b>6,302,100</b>	<b>52,517</b>

## 5.5 Grievances arising from remediation payments.

Following the remediation payments and completion of the first round of remediation above, AGL received the first formal grievance from Chairman Lorropil Committee on 10 October 2022 with the following concerns:

- \* Faulted the consultant approach as non-consultative by not involving the Lorropil village elders when identifying PAPs.
- \* Short and informal eviction notice to settlers in Akiira land.
- \* Disagreed with the list as presented and claimed some names under Lorropil never lived in the village.
- \* The PAP data was not shared with the community.

Since the communities had been sensitized on the AGL GRM process more grievance were received as summarized in the table below.

**Table 5-2: Grievances received on remedial payments.**

DATE	HOW THE GRIEVANCE WAS RECEIVE	NATURE OF GRIEVANCE	Grievance status
<b>10th Oct, 2022</b>	Email sent to AGL	Challenged the Consultants PAP list and approach	Closed
<b>13th Oct, 2022</b>	PAP visited the AGL office in Naivasha and recorded the grievance	Disagreed with the category that he was placed by the consultant (category three instead of category one)	Closed
<b>16th Nov, 2022</b>	PAP visited the AGL office in Naivasha and recorded the grievance	Claimed to have been left out in the remediation list by the consultant	Closed
<b>16th Nov, 2022</b>	PAP visited the AGL office in Naivasha and recorded the grievance	Disagreed with the category that he was placed by the consultant (category three instead of category one)	Closed
<b>23th Jan, 23</b>	PAP visited the AGL office in Naivasha and recorded the grievance	Claimed to have been left out in the remediation list by the consultant	Closed
<b>7th October 23</b>	PAP sent an email sent to AGL.	Enquiry about the Chairperson, asking why the former Personal Secretary to the late Chairman was not included in the meetings and why some individuals were left out	AGL replied to the letter through a letter dated 11 <sup>th</sup> November 2023 which was hand delivered to the PAP on the same day.
<b>28<sup>th</sup> November 23</b>	The same PAP sent another letter	Why the former Personal Secretary to the late Chairman is not included in the	A physical meeting was held on 11th January 2024

		meetings and why some members of the households have been left out	between AGL, the complainant and his associate. The complainant raised same issues as previously raised on categorization and the consultant's data collection process. All issues raised were addressed in the meeting. Open, under review
<b>26<sup>th</sup> December 2023</b>	The same PAP requested a formal meeting with AGL Social Expert through SMS	To deliberate on the email his sent-on 28 November 2023.	A physical meeting was held on 11th January 2024 between AGL, the complainant and his associate. The complainant raised same issues as previously raised on categorization and the consultant's data collection process. All issues raised were addressed in the meeting. Open, under review
<b>15 January 2024</b>	The same PAP sent email on 15 January 2024	- PAP classified PAPs on tribal classes - Raised issues on categorization of PAPs - How and why PAPs from the same families were paid under different categories - Why a specific individual was dropped from the remediation list	AGL replied via email on 21 <sup>st</sup> February 2024. The complainant confirmed on the phone receipt of the letter, but he still hasn't replied. Open, under review

With the grievances registered, AGL therefore started the process of grievance redress mechanism that involved the following meetings:

#### 5.5.1 Tier One first meeting, 25th October 2022 at AGL office, Naivasha

The membership of Tier one AGL grievance committee is composed of and was attended by the following:

- \* AGL represented by
  - \* Frontier Energy ESG Manager
  - \* AGL Social Expert
  - \* AGL CLO's
- \* Area Assistant chief
- \* Area Chief
- \* Five Lorroopil Committee members (represented by the Chairman and his personal Assistant, Secretary, Women Representative, Youth Leader and representative of the elderly).

This meeting was used to acknowledge the grievance lodged by the Lorroopil committee through their Council Chairman. AGL presented the list that was prepared by the independent consultant. AGL also used the opportunity to update the meeting on the PAPs who had already

been remediated. The Lorropil committee claimed to have a different list from the Consultants list. The Chief Hells' Gate also informed the committee of a list which had been presented by the Lorropil members as people affected by the eviction to the office of the Chief and Deputy County Commissioner in mid-2019 before eviction. AGL also had a list of names which were recorded at the village before eviction in August 2019. This brought the lists to four (Consultant, Chief Olkaria location's, List presented to AGL in 2019 and Lorropil 2022).

### 5.5.2 Tier One second meeting, 8th December 2022 at AGL office, Naivasha

The meeting was attended by the following:

- \* AGL represented by
  - \* Frontier Energy ESG Manager
  - \* AGL Social Expert
  - \* AGL CLO's
- \* Area Assistant chief
- \* Area Chief
- \* Five Lorropil Committee members (represented by the Chairman and his personal Assistant, Secretary, Women Representative, Youth Leader and representative of the elderly).

The main agenda for the meeting was the comparison of names in the four lists. The Lorropil community distanced themselves from the three lists availed but stuck with the list handed over to AGL in November 2022.

At the end of the meeting, there was no conclusion, and it was therefore agreed that the matters be escalated to the next GRM level which involved more stakeholders.

### 5.5.3 Tier Three first meeting, 11th May 2023 at Boffar Farm, Naivasha

The membership of Tier Three AGL grievance committee is composed of the following:

- \* AGL represented by
  - \* Frontier Energy ESG Manager
  - \* AGL Social Expert
  - \* AGL CLO's
- \* Area Assistant chief
- \* Five representatives of the Lorropil Committee
- \* NGO representative
- \* Kenya National Human Rights Commission Representatives (KNHRC)
- \* Chief's representing Olkaria and Hellsgate locations.
- \* Assistant County Commissioner on behalf of County Commissioner.
- \* Five Lorropil Committee members (represented by the Chairman and his Personal Assistant, Secretary, Women Representative, Youth Leader and representative of the elderly).

The first tier three meeting was attended by all the members. The minutes from the last tier one meeting were read, certified, and signed. The main agenda was the comparative analysis of the four lists presented by various parties. The meeting came up with the following recommendations.

- \* Those who appeared in either three or four lists were adopted for remediation.
- \* 10 PAPs engaged at governor's camp in Maai Mahiu who admitted having never lived in Lorropil village but lived in Mlima Tatu were dropped from the Lorropil list.
- \* 17 PAPs were found to be ineligible as they appeared only in one list hence dropped.
- \* 32 names were therefore adopted in the meeting to be put in the remediation list.
- \* Committee agreed to further investigate remaining PAPS.

#### **5.5.4 Tier Three Second meeting, 18th May 2023 at Boffar Farm, Naivasha**

The meeting was attended by all the committee members except the chairman Lorropil committee who was unwell at the time. His apology was presented to the meeting by his Personal Assistant and the secretary. The main agenda was to deliberate on the names which were under investigation. Seven (7) names were unanimously adopted and added to the 32 agreed on in the previous meeting. 11 names were dropped while four (4) names were to be investigated further.

#### **5.5.5 Tier Three Third meeting, 15th June 2023 at Boffar Farm, Naivasha**

The meeting was attended by all the committee members and new acting officials following the demise of chairman Lorropil committee. The Secretary of the group acted as the Chairman, and the Committee brought a new member. The ACC and KHCR asked the Lorropil group to go and undertake elections, so that the next meeting could be held with bonafide officials.

The deliberations of the four (4) names that were to be investigated as per the meeting held on 18 May 2022 were tabled for discussion. The meeting agreed to drop all of them since three of them never lived in Lorropil while the other one had his spouse in the list of beneficiaries. Upon further discussion the meeting also agreed that categorization of the PAPs to remain as had been directed by the independent consultant. Lorropil committee requested that they be allowed time to go through the list and do their categorization as they were not satisfied by the consultant categorisation. This request was granted. This meeting concluded to confirm Lorropil PAP list as a total of 38 and not the original 44 as initially proposed in the consultants list.

#### **5.5.6 Tier Three Fourth meeting, 22nd September 2023, Montana Hotel, Naivasha**

The meeting was attended following the elections of new officials of the Lorropil Committee which was held on 21 August and was witnessed by the area Chief and his assistant. All other members of the tier three committee were present as defined above and new officials of the Lorropil Committee.

The meeting discussed categorisation, and the new amounts of remediation.

The meeting reviewed the number of individuals in the categories, based on the deliberations of the meetings held on 15 May, 18 May and 15 June 2023 above.as follows:

- \* Category one remained 13, as per the consultant's initial proposal.
- \* Category three was reduced from 31 PAPs to 25 PAPS.

The meeting also reviewed remedial amounts upwards due to inflation and disturbance for the long delay in implementation as follows:

- \* Category one increased from Kshs. 279,300 (2022) to Kshs. 418,950
- \* Category three increased from Kshs. 55,000 (2022) to Kshs. 100,000

#### **5.5.7 Tier Three Follow-up meeting, 12th October 2023, Montana Hotel, Naivasha**

Since this meeting was only meant for signing of the minutes of the previous meeting it was only attended by AGL representatives which included Frontier ESG Manager, AGL Social Specialist, CLO's and four out of five members of the Lorropil Committee members. The minutes of the previous meeting was read by AGL Social Specialist and were confirmed by AGL and the Lorropil Committee representatives without amendments. The meeting also permitted the AGL team to commence the payment process for the approved PAPs.

## 5.6 Second round of remediation payments 2023

During the second round of payments 3 PAPS under category 1 and 21 PAPS under category 3 were remediated.

**Table 5-3: Total cost of Remediation payments**

Name of village	Category	Number of PAPS	Cost in Kshs	Cost in USD@160/KES
Lorropil	1	3	1,256,850	7,855.30
Lorropil	3	21	2,100,000.00	13,125.00
<b>TOTAL</b>		<b>24</b>	<b>3,356,850.00</b>	<b>20,980.30</b>

## 5.7 Total PAPS and cost of remediation to date

AGL has remediated PAPS at Lorropil village (category 1 and 3) as follows:

- \* **13 out of 13 PAPS under category one has been remediated.**
- \* **21 out of 25 PAPS under category three have been remediated.**
- \* **3 out of 25 PAPS under category three have been engaged but have not committed to remediation process.**
- \* **1 out of 25 PAPS under category three has been traced in vain.**

AGL has remediated PAPS at Mlima Tatu (category 2) village as follows:

- \* **13 out of 14 PAPS under category two has been remediated.**
- \* **1 out of 14 PAPS under category two has been traced in vain.**

## 5.8 Total PAPS and cost of unpaid remediation to date

Based on discussions chapter in 5.7 and remediation payments in Table 5.4. Table 5.5 below indicates the number of PAPS and remediation amount that has not been disbursed. This includes both PAPS that have been traced in vain and PAPS that been engaged but have not committed to the remediation process.

**Table 5-4: Total unpaid remediation payments to date**

Name of village	Category	Number of PAPS	Cost in Kshs	Cost in USD@160/KES
Mlima Tatu	2	1	265,700	1660.25
Lorropil	3	4	400,000	2500
<b>TOTAL</b>		<b>5</b>	<b>665,700</b>	<b>4160.25</b>

AGL will continue remediation efforts until end-March 2024. The remediation money that has not been paid will be held until close-out of the audit of the AGL remediation process. AGL will ensure best efforts are made to obtain written and signed agreement on remedy with any/all remaining PAPS. These individual written agreements will be signed off and witnessed by leadership and local authorities, as has been for the cases already remediated.

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## **5.9 Budget for unforeseen remediation grievances**

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AGL will allocate sufficient budget for unforeseen remediation grievances and that budget will be available until close-out of the audit of the AGL remediation process. This includes grievances from both Mlima Tatu and Lorropil.

## 6 PAPS MONITORING, RESPONSIBILITY AND CHALLENGES OF IMPLEMENTATION

### 6.1 PAPS Monitoring Feedback to be updated in March 2024

Monitoring is essential and should form part of good management practice. Monitoring as an internal project activity, was designed to provide constant feedback on the progress of the project, the problems faced, and the efficiency with which it was being implemented. AGL Social Specialist and the CLO's undertakes interviews, observations, and engagement with local government national administrations to get PAPS progress on a monthly basis.

All the PAPS paid in 2022 were given a grace period of five months after payment and AGL conducted monitoring. Most of the PAPS registered positive changes to their livelihood and had improved their social and economic standards. Table 6.1 below summary of the PAPS monitoring and results. For those paid in 2023, the monitoring and evaluation process will start in January 2024.

**Table 6-1: Summary of Monitoring of PAPS**

Category	No of PAP's	Economic activity engaged	Comments
1	2	Purchased land for the family	One PAP relocated from Nakuru County to Turkana County where the extended family lives. She managed to buy a parcel of land from the remediation money and settled. Another PAP bought land in Olesupukia in Narok county where she practices farming as a livelihood. The two female PAPS were so happy that they now own land and settled with their families.
	5	Purchased animals for rearing for economic gain.	PAPS relocated back to their ancestral land and purchased animals for economic gain.
	1	Purchased a motorbike and bought animals	PAP unfortunately sold all the animals and motorbike after two months despite receiving financial guidance before the payments
	2	Used the remediation money to clear outstanding fees for their children and used part of the money to buy household items	PAPS under this category were happy to report how they cleared outstanding school fees balances for their children from the remediation money.
	2	<i>Purchase of land, paid school fees and start of business</i>	<i>One PAP combined her money with two sisters under category three and purchased half an acre of land in Ndabibi area in Nakuru county. Part of the money was also used to clear outstanding school fees. The other PAP improved her house and started a small business which will support her family economically in Duka moja area</i>
	1	<i>Farming</i>	<i>This PAP was paid in January 2024 and he has leased 15 acres of land and started farming.</i>
2	5	Started a family business	PAPS started vegetable selling, legal charcoal business while others started retails shops.
	3	Purchased land for their families	The remediation has made them get land for settlement. There is positive response from these PAPS.

	2	Constructed rental houses for economic benefit	Constructed rentals in Mai Mahiu town where they had already been allocated land by the government at the governor's camp.
	2	Purchased motorbikes for economic gain	They opted to start commercial business of transporting passengers and goods using motorbikes
	1	Leased land for farming as an economic activity for his family	Currently farming to generate income for their families.
<b>3</b>	1	Leased land for farming as an economic activity for his family in Nyahururu	Started farming as an income generating project.
	20	<b><i>Paid in November 2023 &amp; January 2024.</i></b>	<b><i>Monitored in January and February 2024</i></b>
	11	<i>Invested in farming</i>	<i>Leased land for farming.</i>
	5	<i>Invested in education</i>	<i>They used the money to clear outstanding school fees for their children.</i>
	5	<i>Used for domestic use</i>	<i>They used the money to purchase food stuffs for their families.</i>

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## 6.2 Responsibility of implementation

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AGL Social Specialist and the Community Liaison Officers remain the key pillars of implementation of the report up to the closure of all remediation payments in end September 2024. They are supported by *Frontier Energy's ESG Manager*, and with overall oversight by the AGL Directors from Centum and Frontier. The Frontier Investment Director and Partner in charge of the Project will take lead.

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## 6.3 Challenges of implementation

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The following were the key challenges experienced during the process of implementation:

- \* ***Tracing and location of PAPs*** – After the eviction some people moved back to their original homes, and this caused a challenge in tracing for the remediation. AGL staff had to drive long distances up to including 100Km away from the project area. AGL has however managed to trace and engage 50/52 PAPs.
- \* ***Lack of phones-*** Some of the PAPs do not have phones and tracing was a great challenge.
- \* ***Lack of identification cards*** – Some of the PAPs did not have IDs and they couldn't open bank accounts. AGL had to organize how such PAPs were paid through a joint account managed by the company.
- \* ***Management of expectations*** – Most of the PAPs especially those under category three wanted to be in category one. This was managed through the grievance redress process.
- \* ***High illiteracy levels-***A large number of the PAPs are illiterate, this posed a challenge to the whole process of remediation.
- \* ***Re-opening of grievances after GRM agreement*** – 3 PAPs in Lorropil village (mostly one family) have re-opened the grievances after the process went through all levels of the grievance redress mechanism, and the issues resolved. AGL will continue to engage them in a bid for them to accept the agreed remediation.



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## 6.4 Conclusions

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- \* 47 out of 52 eligible PAPs (90%) have been remediated.
- \* 3 out of 52 PAPs (5.8%) have been engaged but have not committed to remediation process.
- \* 2 out of 52 PAPs (4%) have been traced in vain.
- \* Best efforts will be made to obtain written and signed agreement on remedy with any/all remaining evictees. These individual written agreements will be signed off and witnessed by leadership and local authorities as per all cases that have been remediated.
- \* AGL will be open to remediate any remaining PAPs who are eligible for remedy but with whom an agreement has not been obtained up to the end of September 2024.
- \* AGL will undertake a final pre-closure audit report by an independent social/resettlement specialist as part of the closure of the remediation process. The audit report would conduct a comprehensive review of RPF/RAP and Remedial Action Plan implementation results against the agreed objectives and requirements defined in the plans.
- \* The outcomes / findings / recommendations of the pre-closure audit will be taken on-board and followed up, as part of the closure strategy.