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REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FIFTH SESSION – 2026

PUBLIC PETITIONS COMMITTEE

REPORT ON-

NO. 04 OF 2023

**REGARDING DELAYED ADJUDICATION AND SETTLEMENT OF SQUATTERS
AFTER THE EXPIRY OF THE LEASE OF MACALDER MINES LIMITED LAND**

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE:	01 APR 2026 DAY. <i>Wednesday</i>
TABLED BY:	<i>Hon. Mwachigi Karemba</i>
PREPARED BY:	<i>Modo Miniam</i>



**Directorate of Audit Appropriations &
General-Purpose Committees**
Clerk's Chambers
Main Parliament Buildings
NAIROBI

MARCH, 2026

Table of Contents

CHAIRPERSON'S FOREWORD	3
PART ONE	4
1. PREFACE	4
1.1 Establishment and Mandate of the Committee	4
1.2 Committee Membership	5
1.3 Committee Secretariat	6
PART TWO	7
2 BACKGROUND TO THE PETITION	7
2.1 Introduction	7
2.2 Petitioner's Prayers	7
PART THREE	8
3 STAKEHOLDERS' SUBMISSIONS ON THE PETITION	8
3.1 Petitioners	8
3.2 Site Visit to Nyatike	8
3.3 National Land Commission	9
3.4 Ministry of Lands, Public Works, Housing and Urban Development	10
3.5 County Government of Migori	12
3.6 Ministry of Environment, Climate Change and Forestry	13
PART FIVE	19
5 COMMITTEE OBSERVATIONS	19
PART SIX	20
6 COMMITTEE RECOMMENDATIONS	20

CHAIRPERSON'S FOREWORD

On behalf of the Public Petitions Committee and pursuant to the provisions of Standing Order 227, it is my pleasant privilege and honour to present to this House the Report of the Committee on Public Petition No. 4 of 2023 regarding the delayed adjudication and settlement of squatters after the expiration of the lease of Macalder Mines Limited land by the residents of Nyatike Constituency. The petition was presented to the House pursuant to the provisions of Standing Order No. 225 (2) (a) by the Member for Nyatike Constituency, Hon. Tom Mboya Odege, M.P., on behalf of the residents.

The Petitioner prayed that the National Assembly, through the Public Petitions Committee, engages the Ministry of Lands, Public Works, Housing and Urban Development to ensure that the Macalder land is re-adjudicated to allow the owners to acquire title deeds and save the residents from alleged erroneous records and missing parcels and makes any other recommendation it deemed fit in addressing the plight of the petitioners.

The Committee considered the Petition and observed that records held by the Ministry of Lands, Public Works, Housing and Urban Development reveal that the subject land is registered in favour of South Nyanza County Council, whose successor is the County Government of Migori. Through Legal Notice 85 of 2023 dated 13th June, 2023, the Cabinet Secretary in the Ministry of Environment, Climate Change and Forestry, declared the subject land as a forest area pursuant to section 31(2) of the Forest Conservation and Management Act. A section of residents of the subject land have since filed a petition at the Environment and Lands Court at Migori to challenge the declaration of the land as a forest area. The Court is yet to determine this matter.

The Committee recommends that Macalder land be degazetted and re-adjudicated to allow the owners to acquire title deeds.

The Committee appreciates the Offices of the Speaker and Clerk of the National Assembly for providing guidance and necessary technical support, without which its work would not have been possible. The Chairperson expresses gratitude to the Committee Members for their devotion and commitment to duty during the consideration of the Petition.

On behalf of the Committee and pursuant to the provisions of Standing Order 199, I now wish to lay the Report on the Table of the House.

HON. MUCHANGI KAREMBA, CBS, M.P.

CHAIRPERSON, PUBLIC PETITIONS COMMITTEE

PART ONE

1. PREFACE

1.1 Establishment and Mandate of the Committee

The Public Petitions Committee was established under the provisions of Standing Order 208A with the following terms of reference:

- a) considering all public petitions tabled in the House;
 - b) making such recommendations as may be appropriate with respect to the prayers sought in the petitions;
 - c) recommending whether the findings arising from consideration of a petition should be debated; and
 - d) advising the House and reporting on all public petitions committed to it.
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1.2 Committee Membership

The Public Petitions Committee was constituted in October 2022 and comprises the following Members:

Chairperson

Hon. Muchangi Karemba, CBS, M.P.
Runyenjes Constituency
United Democratic Alliance (UDA)

Vice Chairperson

Hon. Janet Jepkemboi Sitienei, M.P.
Turbo Constituency
United Democratic Alliance (UDA)

Hon. Patrick Makau King'ola, M.P.
Mavoko Constituency

**Wiper Democratic Movement-Kenya
(WDM-K)**

Hon. Edith Vethi Nyenze, M.P.
Kitui West Constituency

**Wiper Democratic Movement-Kenya (WDM-
K)**

Hon. Ntwiga Patrick Munene, M.P.
Chuka Igambang'ombe Constituency
United Democratic Alliance (UDA)

Hon. Maisori Marwa Kitayama, M.P.
Kuria East Constituency
United Democratic Alliance (UDA)

Hon. Joshua Chepyegon Kandie, M.P.
Baringo Central Constituency
United Democratic Alliance (UDA)

Hon. Beatrice Kadeveresia Elachi, M.P.
Dagoretti North Constituency
Orange Democratic Movement (ODM)

Hon. Bernard Muriuki Nebart, M.P.
Mbeere South Constituency
Independent

Hon. Biego Paul Kibichy, M.P.
Chesumei
United Democratic Alliance (UDA)

Hon. Peter Irungu Kihungi, M.P.
Kangema Constituency
Maendeleo Chap Chap Party (MCCP)

Hon. John Bwire Okano, M.P.
Taveta Constituency
**Wiper Democratic Movement-Kenya (WDM-
K)**

Hon. Peter Mbogho Shake, M.P.
Mwatate Constituency
Jubilee Party (JP)

Hon. Sloya Clement Logova, M.P.
Sabatia Constituency
United Democratic Alliance (UDA)

Hon. Suzanne Ndunge Kiamba, M.P.
Makueni Constituency
**Wiper Democratic Movement-Kenya
(WDM-K)**

1.3 Committee Secretariat

The Public Petitions Committee is facilitated by the following members of the secretariat:

Lead Clerk
Mr. Victor Weke
Principal Clerk Assistant II

Ms. Miriam Modo
First Clerk Assistant

Mr. Benard Toroitich
Third Clerk Assistant

Ms. Kafuyai Wamae
Third Clerk Assistant

Mr. Clinton Sindiga
Legal Counsel II

Ms. Nancy Akinyi
Research Officer III

Mr. Arkan Mumin
Research Officer III

Ms. Roselyne Njuki
Principal Serjeant-at-Arms

Mr. Paul Shana
Serjeant-at-Arms

Mr. Pascal Valerian
Hansard Officer III

Mr. Collins Mahamba
Audio Officer III

Ms. Felistus Muiya
Public Communication Officer

Mr. Calvin Karungo
Media Relations Officer III

PART TWO

2 BACKGROUND TO THE PETITION

2.1 Introduction

1. Public Petition No. 4 of 2023 regarding the delayed adjudication and settlement of squatters after the expiration of the lease of Macalder Mines Limited land by the residents of Nyatike Constituency was presented to the House by the Hon. Tom Mboya Odege, MP, on 22nd February 2023.
2. The Petitioners stated that the Macalder area, measuring approximately 3,000 acres, formed part of the ancestral land belonging to the people of Nyatike Constituency. The land was granted, under a mining lease, to Macalder Mines Limited in 1935, which conducted mining operations on the land until 1966.
3. The leasing of the land rendered the rightful owners landless, despite Macalder Mines Limited segregating portions of the land for residential and open mines. The locals became compound managers, domestic workers, and guards on the segregated land established by Macalder Mines Limited.
4. Upon Macalder Mines Limited's exit from Kenya in 1970, the land was not fully developed, except for the residential areas of gold miners and the servant quarters of local workers.
5. The landless citizens who had given up their land to Macalder Mines Limited began resettling and farming on the underdeveloped land. The number of people settling in the land increased between the 1970s and 1990s when the local chiefs allocated the said land.
6. The people settled in the land put it to good economic use by constructing residential houses and commercial centres that generated income, but the Government had yet to adjudicate the land or issue title deeds.
7. Records held by the Department of Land Adjudication, the Land Registrar, and the Department of Survey were erroneous, causing uncertainty among the affected families and landowners.
8. The alleged reluctance by the County Government of Migori and the Ministry of Lands, Public Works, Housing and Urban Development to adjudicate the land and issue title deeds amounted to a denial of fair administrative action to the residents.
9. To the best of the Petitioners' knowledge, the matter in respect of which the Petition was made was not pending before any Court of Law or Constitutional body.

2.2 Petitioner's Prayers

10. The Petitioners prayed that the National Assembly through the Public Petitions Committee:
 - a) Engages the Ministry of Lands, Public, Works, Housing and Urban Development to ensure that the Macalder land is re-adjudicated to allow the owners to acquire title deeds and save the residents from alleged erroneous records and missing parcels; and
 - b) Makes any other recommendation it deemed fit in addressing the plight of the Petitioners.

PART THREE

3 STAKEHOLDERS' SUBMISSIONS ON THE PETITION

3.1 Petitioners

On Thursday, 13th April, 2023, the Member for Nyatike Constituency, Hon. Tom Mboya Odege, M.P. appeared before the Committee and submitted as follows:

11. The Macalder land, measuring approximately 3,000 acres, was acquired from the community by the colonial Government and leased to Macalder Mines Limited in 1935. The said land was part of the larger ancestral 6,000-acre land.
12. Macalder Mines Limited conducted mining activities on the land until 1966. Upon the exit of the Macalder Mines Limited from Kenya in 1970, the land was not fully developed, except for the residential areas of gold miners and the servant quarters of local workers.
13. The landless citizens who had given up their land to Macalder Mines Limited began resettling and farming on the underdeveloped land.
14. The number of people settling in the land increased between the 1970s and the 1990s, when the local chiefs allocated land.
15. The people who settled in the land utilized it for economic use, construction of residential houses and commercial centres which were earning them income but the County Government of Migori did not adjudicate the land nor issue title deeds to the residents.
16. The petitioners prayed that the Committee engages the Ministry of Lands, Public Works, Housing and Urban Development to ensure that the Macalder land is re-adjudicated to allow the owners to acquire title deeds and save the residents from alleged erroneous records and missing parcels.

3.2 Site Visit to Nyatike

The Committee conducted a site visit to Nyatike Location, Nyatike Constituency in Migori County, on Wednesday, 31st May 2023. During which the petitioners submitted as follows—

17. The Macalder land originally belonged to the community until the year 1933, when it was leased to Macalder Mines Ltd., a Canadian Company, to undertake mining activities, forcing the locals to relocate to other unoccupied lands within Nyatike and the nearby areas around the mines.
18. The affected people were issued permits or passes specifying the activities they were allowed to undertake on the land. The permits, for instance, only allowed them to cultivate up to 5 acres of land or keep a certain number of animals.
19. In 1971, the Canadians stopped the mining activities and left, leaving the land, which was then under the South Nyanza County Council, to be handed over to the current County Government of Migori in 1982.

20. Upon the Canadians' departure from the land, the people who had been displaced returned and occupied the land, but have not yet been issued title deeds to ensure legal ownership.
21. The land was held in trust, and the lease agreement was in effect.
22. The County Government had issued orders disallowing residents from erecting permanent structures or undertaking any activity on the land. In addition, the County Government of Migori's continuous renewal of Leases to traders and other users made it difficult for the community to acquire ownership of the land.
23. The area is currently underdeveloped, lacking permanent structures due to fear of evictions, with residents engaging in small-scale farming and artisanal mining activities that are not economically viable.
24. Non-residents were irregularly allocated land without consideration of the community, which had businesses running for decades in the area.
25. The Petitioners sought the committee's intervention to take up the matter with the County Government of Migori to establish the current ownership of the land, whether the lease was active or expired, and recommend urgent adjudication of the land to the community.

3.3 National Land Commission

On Wednesday, 4th October 2023, the Chairperson of the National Land Commission, Mr. Gerishom Otachi, appeared before the Committee and submitted as follows—

26. Macalder Mines Ltd., a Canadian Company started mining in that area in 1933. According to the locals, the company mapped out specific areas for mining and displaced the locals. However, it allowed them to settle in adjacent areas with conditions to obtain a permit from Macalder Mines Ltd. and some of the conditions included—
 - (i) The locals were not supposed to cultivate more than five acres of land.
 - (ii) The locals were not supposed to keep more than 16 heads of cattle.
27. When the lease expired around 1970, they moved in, claiming it as their ancestral land. The residents occupy the largest portion of the land, where they have built residential houses and cultivated crops for subsistence. Some dwelling houses have been constructed with permanent materials, but the majority are semi-permanent (mud walls and corrugated iron sheets). Some individuals also keep cattle, sheep, and goats.
28. The Nyatike Market occupies a portion of the land. The market was planned by the then County Council of Migori, and resultant plots were allocated to individuals by the defunct County Council. The entire block, including the market's perimeter, was surveyed, but the National Land Commission could not confirm with the county government whether individual plots were surveyed.

29. There is a Catholic church mission complex on the land, comprising a church, a convent, and offices. The mission complex was surveyed, but the Commission could not confirm whether their interest was registered.
30. There are old mines on the parcel. Adjacent to these old mines are residential buildings that appear to have been the dwellings of those who managed the mines. The mines were in the condition left by the Canadians, and they had not been rehabilitated.
31. There are also sub-county administration offices, residential quarters for the sub-county administrators, and a police station and police lines to the north. There is an airstrip in the northeastern part of the parcel and a primary school almost in the central part of the land.
32. The land records indicate that there was a reservation for Macalder Township, which was registered on 11th November 1941, and therefore, adjudication as requested may not be the procedure for regularization of settlement.
33. The land records also revealed that the parcel was registered in favour of South Nyanza County Council, whose successor was the County Government of Migori.

3.4 Ministry of Lands, Public Works, Housing and Urban Development

On Wednesday, 4th October, 2023, Hon. Generali Nixon Korir, the Principal Secretary of the State Department for Lands, appeared before the Committee and submitted as follows—

34. According to the records at the Ministry, the land in question falls within the parcel registered as Muhuru/Kadem/Macalder/498, which measures approximately 2167.5 Hectares. It was registered in favour of the defunct South Nyanza County Council (now County Government of Migori) on February 19, 1982, on a freehold tenure.
35. The land became public land under the County Government of Migori pursuant to Article 62 of the Constitution. Therefore, it can be alienated only through direct allocation, a process initiated by the county government. The Ministry will thereafter process the title documents after the land has been allocated. The matter can therefore be referred to the County Government of Migori for consideration.
36. The gazettment of the Macalder land as a forest land by the Cabinet Secretary, Ministry of Environment, Forestry, and Climate Change, had not come to the attention of the Ministry of Lands, Public Works, Housing and Urban Development. However, there were instances of such gazettments without the knowledge of the Ministry of Lands, Public Works, Housing and Urban Development.
37. The land in question measures 5,000 acres, but the petitioners claimed only 300 acres. However, Migori County Government should be answerable, as the Ministry of Lands, Public Works, Housing and Urban Development only facilitates the issuance of title deeds after the allocation has been made by the county. Further, the county oversees planning and approves the allocation before subdivision, and the NLC issues the allotment letter.
38. A Committee on historical land injustices was in place under the National Land Commission and was mandated to examine community interests in historical land cases.

On Wednesday, 15th November 2023, the Cabinet Secretary, Ministry of Lands, Public Works, Housing and Urban Development, Hon. Alice Wahome, EGH, appeared before the Committee and submitted as follows -

39. Macalder Mines fall within a parcel registered as Muhuru/Kadem/Macalder/498 measuring approximately 2167.5 hectares. The parcel was still registered in favor of the defunct South Nyanza County Council (now County Government of Migori).
40. The Ministry had established that the Cabinet Secretary for the Ministry of Environment, Climate Change and Forestry gazetted the area as a forest land vide Legal Notice No. 85 of 2023 dated 13th June, 2023. The area was delineated and edged on boundary plan number 175/517. Henceforth, the land was public land under the management of the Kenya Forest Service (KFS) and could not be adjudicated by the Ministry.
41. Regarding information sharing and consultation between the two Ministries before the gazette, the CS indicated that perhaps the CS was not aware of the ongoing Petition before the Committee at the time of the gazette. Further, public participation ought to have been done. However, the fate of the people occupying the land was a priority for the government hence the two Ministries would engage on the matter and present a better response to the Committee and rectify any oversight that might have occurred.
42. Regarding why the land was gazetted as a forest, the CS stated that there must have been a reason why it was gazetted, and the information needed to be provided by the relevant Ministry. Further, the custodian of public property as well as all government lands was the National Treasury and the Ministry of Lands, Public Works, Housing and Urban Development's role was to keep the records. However, the Petitioners ought to have been aware of public participation even though the process of gazette is faster than de-gazette.
43. Regarding the status of the land, the CS indicated that the register read South Nyanza County Council, and therefore, until the gazette was regularised the change of ownership would not take place. Further, the Ministry of Lands, Public Works, Housing and Urban Development had not been informed officially to transfer ownership to Kenya Forest Service. The CS committed to instruct the Director of Survey and Lands Administrator in the area to research and provide a proper indication of the number of people affected. Further, a gazette notice could not override the proprietary interest by way of title and the status quo would remain, and the land ownership would not be transferred before the Petition is concluded.

On Thursday, 29th February, 2024, Hon. Alice Wahome, the Cabinet Secretary, Ministry of Lands, Public Works, Housing and Urban Development, further appeared before the Committee and submitted as follows—

44. Macalder Mines was within a parcel registered as Muhuru/ Kadem/Macalder/498 measuring approximately 2167.5 Hectares (approximately 5,355.9 Acres).

45. The total acreage of the land gazetted as a forest by the Cabinet Secretary, Ministry of Environment, Climate Change and Forestry vide Legal Notice No. 85 of 2023 marked annexure 2 was 2494.95 Hectares (approximately 6,165.0 Acres).
46. The initial land was MR. NO. 123 with an acreage of 6178 acres as presented in Survey plan FR. NO. 4948. A resurvey was done in 1993 which converted MR. NO. 123 to LR. NO. 17955 with an acreage of 2,500 Hectares (6,178 acres).
47. In 1993, a sub-division of LR. NO. 17955 resulted into LR. NO. 17955/1 and 17955/2 with acreages of 1.019 Hectares (2.518 acres) and 4.170 Hectares (10.30 acres), respectively.
48. The Committee sought clarity on the process of gazetting a land as a forest. The Cabinet Secretary clarified that all lands are registered by the Ministry whether private, public or community land. The land in question was registered under the County Government of Migori but was leased to individuals. After the expiry of the lease, the land reverted to the county. Therefore, any negotiation on gazettelement as a forest was between the county and the Ministry of Environment, Climate Change and Forestry and but the Ministry of Lands, Public Works, Housing and Urban Development was only to document the records.

3.5 County Government of Migori

Vide a letter dated Monday, 1st July 2024, the County Executive Committee Member of Lands, Physical Planning, Housing and Urban Development of the County Government of Migori, Hon. Eng. John Kobado submitted as follows—

49. Land Reference No. 17955, measuring 2,500 Hectares which translating to 6,177.8 Acres, as per Fixed Boundary Survey Plan No. 49/48, was approved by the Surveyor General on 13th March, 1942. The fixed boundary survey formed the basis of the lease to Macalder Mines Limited.
50. The land adjudication process for Macalder was initiated in 1969 and completed in 1981.
51. The parcel of land was adjudicated as Muhuru Kadem/Macaldler/498 for SOUTH NYANZA COUNTY COUNCIL with reservation for Macalder Township.
52. When a Lease expires on a particular Parcel of Land, the land reverts to the Lessor but not to the people residing near such a parcel of land. In this particular case, the land reverted to the County Government of Migori. The County Government was the Lessor after it took over the Assets and Liabilities of the defunct Local Authorities.
53. The leasing of the land did not dispossess the rightful owners of the land rendering them squatters because leasing was effected before Land Adjudication started in Nyatike.
54. Land Adjudication is the process by which all existing rights in any particular parcel of land are finally and authoritatively ascertained. The existing rights are merely recognized and confirmed in adjudication record and demarcation map; collectively known as the Adjudication Register.
55. Upon the exit of the Macalder Mines Limited from Kenya in 1970, all the land that had been leased for mining reverted to the Lessor which is the County Government of Migori.

56. The land which was being used for mining was not leased from Private Citizens in Nyatike but from the then Local Authority.
57. In view of the foregoing, the people who had been farming in the undeveloped land did it illegally and therefore, public land would not be acquired through prescriptive rights available irrespective of the number of years they occupied the aforementioned land.
58. The local chiefs do not have powers to allocate any public land to a private developer under any laws in Kenya. The allocation of public land was clearly stipulated in the relevant laws in Kenya.
59. People who enter into public land illegally and make economic use, construct residential houses and commercial centres which are earning them an income, have no rights to legal occupation of any public land.
60. Records held at the Land Adjudication, Land registry and Department of Survey were not erroneous but were Government records which followed the laid down procedures of creating such Local Records as stipulated by the Law.
61. The Department of Survey is the only government institution in Kenya mandated to keep safe custody all official maps in Kenya including Maps for insurance of Title Deeds.
62. Land adjudication had been ongoing in Nyatike and determination of the rights of occupiers of Land through the Land Adjudication Process as stipulated in the Land Adjudication Act CAP 284 Laws of Kenya.
63. The issues raised in the petition were null and void because there were land records which followed the due process of creation in Nyatike.

3.6 Ministry of Environment, Climate Change and Forestry

On Thursday, 5th December 2024, the Cabinet Secretary for the Ministry of Environment, Climate Change and Forestry, Hon. Aden Bare Duale, EGH, appeared before the Committee and submitted as follows—

64. The case was under consideration before the Environment and Land Court in ELC Petition No. 1 of 2023 (Migori County Government V. Attorney General & 3 others), consolidated with ELC Petition No. 4 of 2023. The County Government of Migori along with other petitioners, was asserting ownership of 2,500 hectares of Macalder Forest.
65. The matter was active in court pending judgment. The Cabinet Secretary was not at liberty to proceed with the petition until the matter was determined and concluded by the court.

Vide a letter dated 30th July 2025, the Cabinet Secretary for the Ministry of Environment, Climate Change and Forestry, Dr. Deborah Barsasa, submitted as follows—

66. During a meeting with the Public Petitions Committee meeting held on 4th June 2025, it was resolved that the Ministry of Environment, Climate Change and Forestry provide a status report on the matter.

67. A stakeholder engagement meeting held on 14th July 2025 in Migori County was attended by a team lead by the Principal Secretary State Department for Forestry and chaired by the Principal Secretary State Department for Mining.
68. Others in attendance were officials from Kenya Forest Service (KFS), NEMA, National Police Service and the County Government of Migori.
69. After the lease for Macalder Mines Limited expired, the land, some of which overlaps with designated forest areas, has continued to be occupied by squatters and unregulated artisanal mining. These activities have caused significant environmental issues, including forest encroachment and pollution of water sources due to hazardous chemicals like sodium cyanide.
70. This therefore calls for a concerted effort through a multi-agency approach in order to address the issue of resettlement of squatters occupying the forest areas, who are at risk of exposure to harmful chemicals from mining activities. Further to this, there is also need to safeguard the ecological integrity of the landscape given the environmental services it provides to the neighbouring communities.

Key Challenges identified

71. During the site visit by the team who overflowed the entire land, the following observations were made—
 - a) There is continued occupation on gazetted forest areas by squatters with no ownership documents/title deeds.
 - b) Unregulated artisanal mining activities encroaching on gazetted forest areas, with reported use of sodium cyanide threatening watercourses through contamination.
 - c) Gaps in coordinated enforcement among lead agencies on encroachment of forest areas.

Stakeholder Intervention and Local Leadership Engagement

72. A multi-agency meeting was held on 14th July 2025, in Migori County, chaired by the Principal Secretary for Mining.
73. The meeting led to key resolutions focused on resettlement and environmental restoration. A significant resolution involved the participation of local leadership, including the area Member of Parliament, the County Government, County Commissioner, Kenya Forest Service (KFS), and representatives from the affected community.
74. The outcome of the meeting was a consensus to bring together all the leaders and the affected community to discuss and propose suitable resettlement strategies.
75. This cooperative approach has created a platform for inclusive decision-making, enhancing the legitimacy and ownership of the resettlement process by the local population.

Support from the Ministry

76. The Ministry of Environment, Climate Change and Forestry has fully supported these efforts and is acting on the recommendations from the stakeholder meeting. Specifically, the Ministry has formally requested the Director of Surveys (Ministry of Lands) to form a technical team of surveyors to collaborate with KES in marking the boundaries of Macalder Forest.
77. This step is crucial for determining the scope of resettlement and planning for forest conservation.

Recommendations and Way Forward

78. Continued support for discussions on resettlement led by local leadership comprising of the area Member of Parliament, County Government, national government administration officers and the representatives of the affected community.
79. Accelerated boundary demarcation efforts to guide land-use planning, adjudication and resettlement.
80. Hold regular multi-agency review sessions to monitor enforcement actions, adjudication progress, and environmental remediation.
81. Development of inclusive, sustainable land-use plans that balance environmental protection with human settlement needs.
82. Strengthening the Rapid Results Initiative (RRI) task force to ensure quick responses to environmental and enforcement issues.

Conclusion

83. The Ministry remains dedicated to a fair and sustainable resolution of the squatter resettlement issue in Macalder. Through organized stakeholder engagement and coordinated enforcement actions, the Ministry continues to support local leadership and ensure that the process protects both environmental integrity and community rights.

Vide a letter dated 16th October 2025, the Cabinet Secretary for the Ministry of Environment, Climate Change and Forestry, Dr. Deborah Barsasa, submitted as follows—

Status Update and Context

84. Original Status: Macalder land was registered as M.R. No. 123 as a Government land leased to a Canadian Mining Company by the Colonial Government in the 1930s.
85. The Company wound up soon after independence, leaving behind residential buildings which were later turned into Government residential quarters and offices. The current dwellers are among those who remained behind after being served with an eviction order in 1973.
86. In the year 1983, the then South Nyanza County Council passed a resolution No. 6/83 of 1983 and under Minute No. 6/83 of 1983 affirmed the need and urgency for afforestation/

reforestation activities and gazettelement of the underlined Government land (Nyatike Hill/Macalder forest).

87. The spatial spread of the area is approximately 2,500 Ha (6,178 Acres) and has always been managed as a forest area by the then Forest Department and now Kenya Forest Service after the Canadian Mining Company left.
88. Gazettelement: Considering Resolution No. 6/83 of 1983 - Minute No. 6/83 of 1983 and following the due process in accordance with Sec 31 (2) of the Forest Conservation and Management Act 2016, the area has since been Gazetted as a forest area via Legal Notice No. 85 of 13th June 2023 in the category of a Public Forest.
89. Core Challenge: The continued occupation by squatters and unregulated artisanal mining activities (including the use of hazardous chemicals like sodium cyanide) poses a significant risk of environmental degradation, forest encroachment, and water pollution.
90. Government Position: The fact that the land under reference is Government Forest land means that it could not be available for adjudication.
91. Action Taken (Multi-Agency Approach): A multi-agency forum involving the State Departments for Forestry and Mining, KFS, NEMA, National Police Service, and County Administration was convened on 14th July 2025 to coordinate a response. On 17th July 2025, the Kenya Forest Service (KFS) formally requested the Director of Surveys to expedite the process of determining and confirming the Macalder Gazetted Forest boundaries.

Response to Resettlement Plan and Adjudication

92. The Ministry's response regarding the petitioners' prayers for re-adjudication and settlement is governed by the current legal and judicial status of the land.
93. Sub Judice Status: It is imperative to note that there is an ongoing and active Court case whose mention was on April 29, 2025, and a further mention on July 16, 2025, at the Migori Environment and Land Court (ELCL PET. E001 of 2023). This case is consolidated with ELC Petition No. 4 of 2023.
94. Legal Prohibition on Resettlement/Adjudication Action: The County of Migori, alongside other petitioners, is asserting ownership of the 2,500 hectares of Macalder Forest in this suit. Commenting or taking any action on the matter of land adjudication or resettlement at this stage is Sub judice, which might amount to contempt of court.
95. Ecosystem Approach-Conflict Resolution Mechanism: The Ministry, in concurrence with the National Forest Policy, 2023, considers an ecosystem approach to address the issue, acknowledging that the piece of land being a gazetted public forest is not available for adjudication.

Ministry Recommendations

96. In addressing the concerns raised in Public Petition **No. 4 of 2023**, the Ministry of Environment, Climate Change and Forestry submits the following recommendations and a comprehensive road map, developed through a consultative approach.

1. Alternative Avenues for Community Participation

97. The Ministry, while noting the constraints imposed by the sub judice status of the matter, proposes to resolve the plight of the petitioners through participatory conservation mechanisms:
98. The affected people are encouraged to actively participate in forest conservation and management activities through the legally recognized Nyatike Mirema Community Forest Association (NYAMCOFA). This is consistent with PART V of the Forest Conservation and Management Act, 2016, which governs Community Participation.
99. The Ministry commits to exploring non-adjudication, non-settlement avenues for conflict resolution, as directed by the Court, including the use of the **County Intergovernmental Forum (CIF)**.

2. Formal Review of Public Forest Boundaries

100. Following three (3) local consultative forums (**Barazas**) with community stakeholders, the Ministry is actively **considering the initiation of a formal boundary review** of the affected Public Forest area.
- This review, being determined by the Kenya Forest Service (KFS), seeks to ensure that essential public infrastructure—including the Chief’s office, police station, market centers, and dispensaries—is officially recognized and protected within the designated settlement zones.
 - The Ministry shall allocate the necessary **technical resources** to ensure a prompt implementation of these actions and will provide continuous **policy oversight**.

3. Immediate Suspension of Activities and Unified Commitment

101. The Ministry notes that a crucial step toward de-escalation has been achieved:
- In the wake of the consultative forums (**Barazas**), the local communities, in close coordination with the oversight committee, reached a **unanimous decision to suspend all mining and related activities** within the affected areas surrounding Macalder Mines.
 - This collective action reflects a strong and unified commitment to safeguarding public assets, preserving ecological integrity, and promoting the long-term welfare of the local population.

4. Implementation Road Map

102. The Ministry has developed a multi-phase roadmap to guide the resolution process, and the table below outlines the current status of each phase.

Phase	Timeline	Key Activities	Lead Institutions	Status
Immediate	July 1–15, 2025	Stop all mining operations in the forest	Ministry of Environment, Ministry of Lands, Attorney General’s Office	achieved

Short-Term	July 16– August 31, 2025	Field-based verification; conduct barazas; gather testimonies from residents.	NLC, Migori County Government, Ministry of Interior, Kenya Forest Service	Two (2) Barazas conducted-achieved
Medium-Term	September– November 2025	Consider the Reports of the Field Based Verification at the Ministry	Ministries of Lands, Environment, Treasury, Education, Attorney General’s Office	Ongoing
Long-Term	December 2025–June 2026	Consider Digitize zoning maps; propose and table legislative reforms on gazettement practices.	Ministry of Housing, Survey of Kenya, Kenya Law Reform Commission, National Assembly	This is to seek Parliamentary approval

PART FIVE

5 COMMITTEE OBSERVATIONS

Upon hearing from the Petitioners, County Government of Migori, Ministry of Lands, Public Works, Housing and Urban Development, Ministry of Environment, Climate Change and Forestry and conducting a site visit, the Committee observed that—

104. The records with the Ministry of Lands, Public Works, Housing and Urban Development, reveal that the subject land was registered in favour of South Nyanza County Council, whose successor is the County Government of Migori.
105. Vide Legal Notice No. 85 of 2023 dated 13th June 2023, the Cabinet Secretary in charge of the Ministry of Environment, Climate Change and Forestry in exercise of the powers conferred by section 31(2) of the Forest Conservation and Management Act declared an area of the land approximately 2494.95 hectares (6165.02 acres) as a forest land.
106. Following the gazettment of Macalder land as a public forest, residents of the subject land filed a petition at the Environment and Lands Court in Migori County on 16th September 2023, seeking the revocation of Legal Notice No. 85 of 2023, dated 13th June 2023. The case was under consideration by the Environment and Land Court in ELC Petition No. 01 of 2023 [Migori County Government -vs- Attorney General & 3 others].
107. The Ministry of Environment, Climate Change and Forestry, through the Kenya Forest Service, has since recorded a consent with the County Government of Migori, through the Office of the Attorney General. The parties to agree to determine through their respective Surveyors the area of Title No. 17955 Migori that is covered by forest and proceed to have the said title subdivided to demarcate the forested and give the area its own title in the name of The Kenya Forest Service, with the rest of the land remaining with the Migori County Government.
108. The Committee notes vide KFS/LS/16/24 Kenya Forest Service has duly reviewed the contents and terms of the proposed consent and wish to confirm that it is amenable to the same.
109. The Service concurs with the arrangement to have the respective survey teams from both parties determine the portion of Title No. 17955 - Migori that is covered by forest and proceed to demarcate and subdivide it accordingly.
110. The Committee further observes, a petition dated 16th September 2023 was presented to the court seeking the revocation of the said Legal Notice and that the parties herein to agree and determine through their respective Surveyors the area of Title No. 17955 Migori that is covered by forest and proceed to have the said title subdivided to demarcate the forested area and give the area its own title in the name of the Kenya Forest Service, the 1st respondent herein with the rest of the land remaining with the Migori County Government, the Petitioner herein

PART SIX

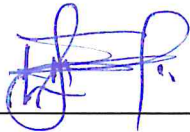
6 COMMITTEE RECOMMENDATIONS

111. Pursuant to the provisions of Standing Order 227, the Committee responds to the petitioners as follows—

On the prayer that the Committee engages the Ministry of Lands, Public Works, Housing and Urban Development to ensure that the Macalder land is re-adjudicated to allow the owners to acquire title deeds and save the residents from alleged erroneous and missing records, **the Committee recommends that:**

- i) **Within six (6) months upon tabling of this report, the Cabinet Secretary in charge of the Ministry of Environment, Climate, County Government of Migori should proceed to have the said title subdivided to demarcate the forested area and give the area its own title in the name of the Kenya Forest Service, with the rest of the land remaining with the Migori County Government.**
- ii) **Within six (6) months upon tabling of this report, the County Government should map out genuine beneficiaries and consider allocations to them and report back to the National Assembly.**

Signed: _____



Date: _____

01/04/2026

HON. MUCHANGI KAREMBA, CBS, M.P.

CHAIRPERSON, PUBLIC PETITIONS COMMITTEE

ANNEXURES

Annex 1: The Adoption List

Annex 2: Public Petition No. 4 of 2023 regarding delayed adjudication and settlement of squatters after the expiration of lease of Macalder Mines Limited land

Annex 3: Minutes of proceedings





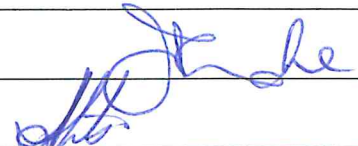
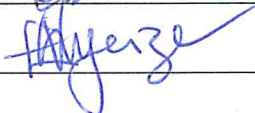
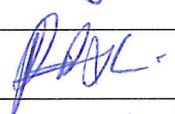
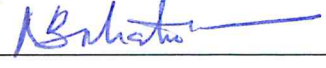

PUBLIC PETITIONS COMMITTEE

ADOPTION LIST

- (i) **Consideration and adoption of the Report on Public Petition No. 4 of 2023 by Hon. Tom Mboya Odege, MP regarding the delayed adjudication and settlement of squatters on Macalder Mines Ltd. Land**

We, the undersigned, hereby affix our signatures to this Report to affirm our approval:

DATE: 17/3/2026

	HON. MEMBER	SIGNATURE
1.	Hon. Muchangi Karemba, CBS, M.P. (Chairperson)	
2.	Hon. Janet Jepkemboi Sitienei, CBS, M.P. (Vice Chairperson)	
3.	Hon. Patrick Makau King'ola, M.P.	
4.	Hon. Beatrice Kadeveresia Elachi, CBS, M.P.	
5.	Hon. Joshua Chepyegon Kandie, M.P.	
6.	Hon. Maisori Marwa Kitayama, M.P.	
7.	Hon. Edith Vethi Nyenze, M.P.	
8.	Hon. Patrick Ntwiga Munene, M.P.	
9.	Hon. Paul Biego Kibichichy, MP	
10.	Hon. (Eng.) Bernard Muriuki Nebart, M.P.	
11.	Hon. Peter Mbogho Shake, M.P.	
12.	Hon. Suzanne Ndunge Kiamba, M.P.	
13.	Hon. John Bwire Okano, M.P.	
14.	Hon. Sloya Clement Logova, M.P.	
15.	Hon. Peter Irungu Kihungi, M.P.	

