

# Protecting Land Outside Protected Areas in Kenya

Kathleen H. Fitzgerald  
Director Land Conservation  
*African Wildlife Foundation*



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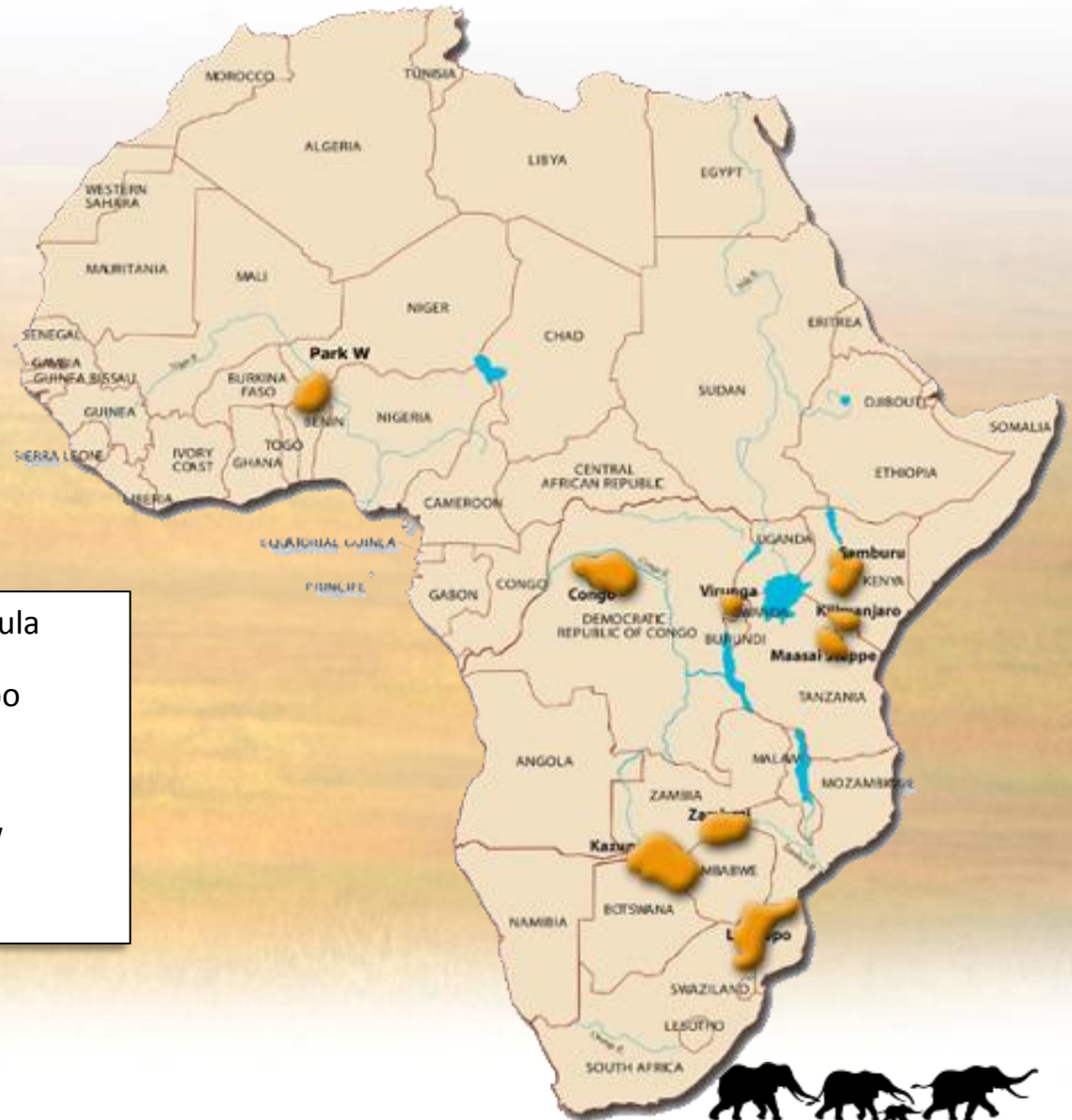
# AWF Mission

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*Work together with  
the people of Africa  
to ensure that  
wildlife and wild  
lands of Africa  
endure forever.*



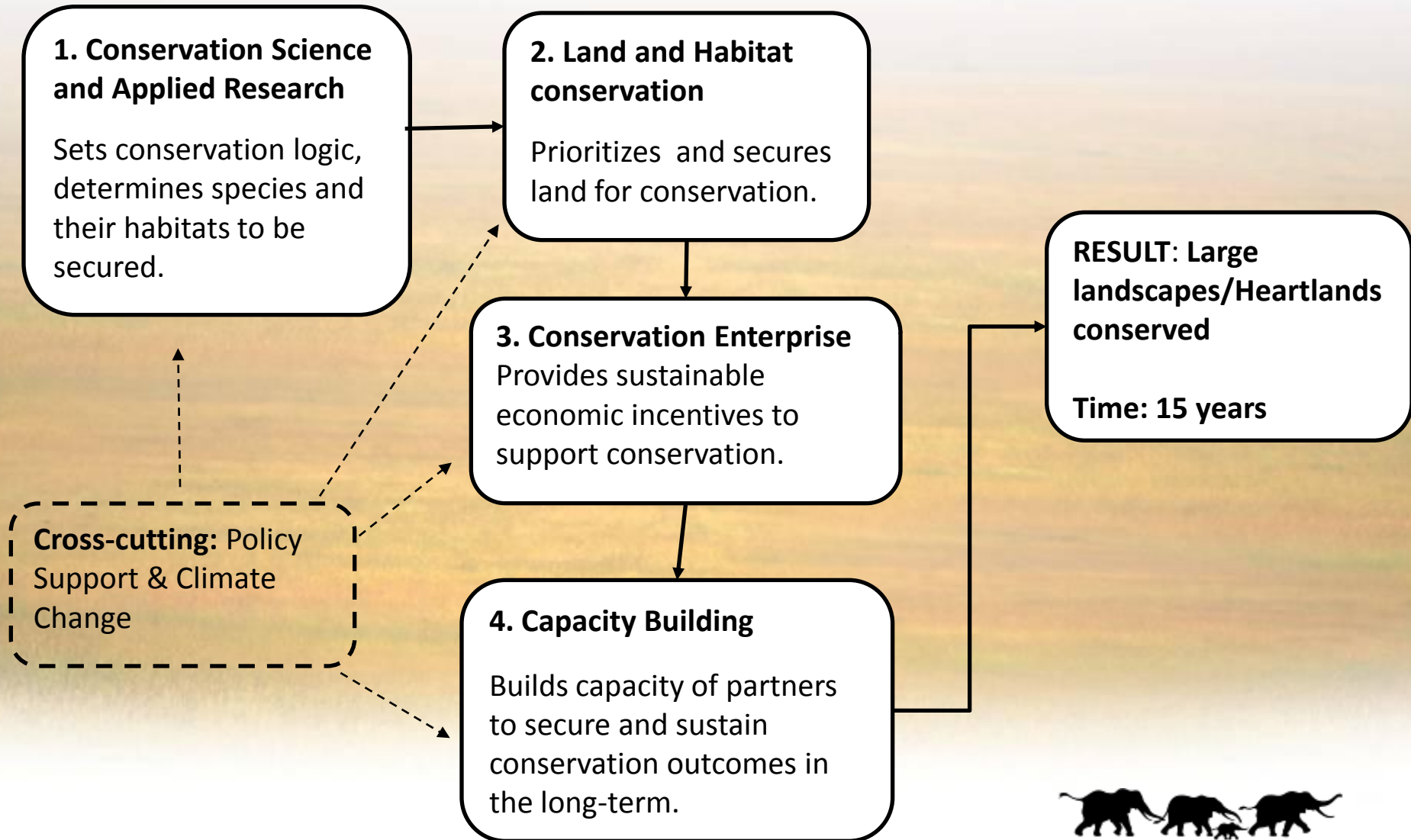
# AWF African Heartland Program



- |                  |              |
|------------------|--------------|
| 1. Maasai Steppe | 6. Kazungula |
| 2. Kilimanjaro   | 7. Limpopo   |
| 3. Samburu       | 8. Congo     |
| 4. Virunga       | 9. Parc W    |
| 5. Zambezi       |              |



# Strategic Areas of Program



# Need for New Tools

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To secure Kenya's ecological integrity and maintain viable populations of native wildlife, land outside protected areas must be protected through innovative conservation measures, such as environmental easements.



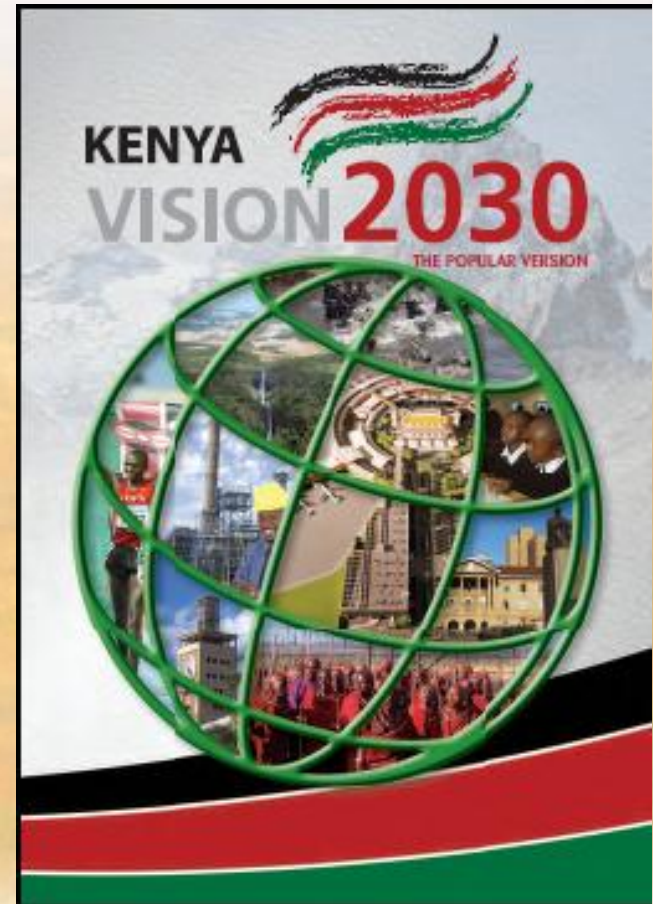
# Vision 2030

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Kenya aims to be a nation that has a clean, secure and sustainable environment by 2030.

Flagship Projects for the Environment:

Securing Wildlife Corridors and Migratory Routes



# Land and Habitat Conservation

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- **Goal:** Protect key wildlife habitats, core areas and corridors.
  
- **Tools and approaches used**
  - a) Support to Protected Areas
  - b) Participatory Land Use Planning and Zoning in Community areas
  - c) Direct Purchase
  - d) Application of Legal and Economic Instruments e.g. Leases
  - e) Land policy Advocacy
  - f) Forest Conservation Including REDD and Other Carbon Instruments
  - g) Establish Land Conservation Trusts
  - h) Payment for Ecosystem Services





# Statutory Regulation

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**Constitution, Section 66.** Gives the Government the authority to regulate the use of any land, or any interest in or right over any land, in the interest of defense, public safety, public order, public morality, public health, or land use planning.

**Water Act (2002).** The Act's provisions can be used to ensure availability of clean water for wildlife and protect catchment habitat around water bodies.

**Agriculture Act (1963).** Includes the keeping of "game animals." Gives the Minister rights to enforce soil protection...including disposing of the land from landowners who do not comply.

**Physical Planning Act.** Enables local zoning. Example: Kitengela Plains.

**Many other examples...**





# Land Conservation Tools

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Environmental Easements  
Conservation Leases  
Carbon Credits  
Co-Management Agreements



# Payment for Ecosystem Services: Definition

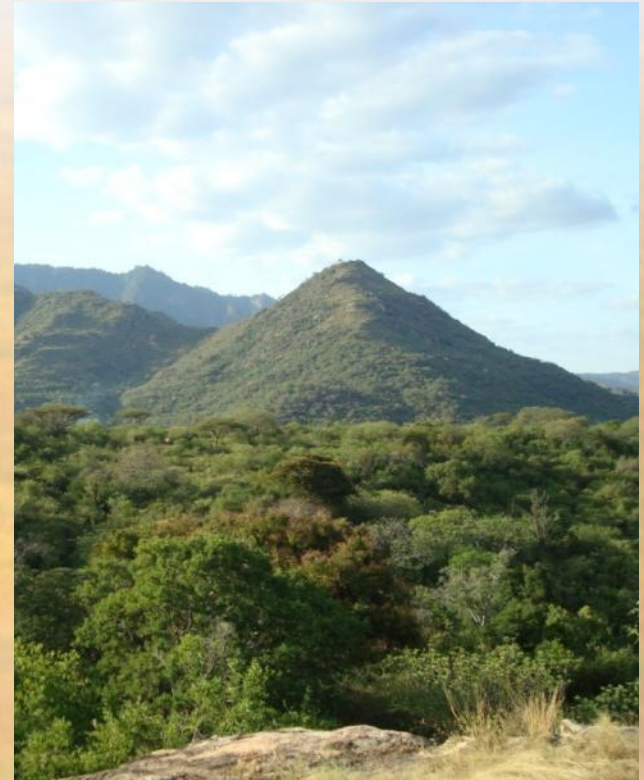
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1. a *voluntary transaction where*
2. a *well-defined ES (or a land-use likely to secure that service)*
3. is being 'bought' by a (minimum one) *ES buyer*
4. from a (minimum one) *ES provider*
5. if and only if the ES provider secures ES provision (*conditionality*).

# Types of Payment for Ecosystem Services

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1. Carbon sequestration and storage
2. Biodiversity
3. Watershed
4. Landscape beauty





# Environmental Easements

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A legal agreement between a landowner & a qualified organization that limits uses of the land to protect its conservation values.

Voluntary & recorded agreement. Enforced by the holder.

An environmental easement identifies important characteristics of the property that provide public benefit—conservation values—then establishes a set of restrictions on use of the property to ensure the conservation values are protected.

Forever?



# Kenya Environmental Easement

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1999. Environmental Management and Coordination Act (EMCA), Sections 112-116.

Provides for the creation of environmental easements as a mechanism for facilitating the conservation and enhancement of the environment, by imposing one or more obligations in respect of the use of land.



# 1999 EMCA Section 112

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**112.** (1) A court may, on an application...grant an environmental easement...

(11) The object of an EE is to further the principals of environmental management set out in this Act by facilitating the conservation and enhancement of the environment...through the imposition of one or more obligations in respect of the use of land...

(12) An EE may be imposed on ... in perpetuity or for a term of years or for an equivalent interest under customary law as the court may determine.

(13)...an EE may be imposed ... so as to –

- preserve flora and fauna....scenic view....open space....quality and flow of water
- preserve any outstanding geological, physiographical, ecological, archeological or historical features of the burdened land...nature contours and features
- permit persons to walk in a defined path across the burdened land;
- prevent or restrict mining and working of mineral aggregates....agricultural activity
- create or maintain migration corridors for wildlife.





# EMCA Sections 113-116

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**113.** (1) A person or a group of persons may make an application to the court for the grant of one or more EE.

**114.** (1) Proceedings to enforce an environmental easement may be commenced only by the person in whose name the environmental easement has been issued.

**115.** Registration

**116.** (1) Any person who has a legal interest in the land which is the subject of an EE, shall...be entitled to compensation commensurate with the lost value of the use of the land.

- The court may require the applicant for the EE to bear the cost ...
- The court may, if satisfied that the EE is of national importance, order that the Government compensates ...
- The court ...take into account the relevant provisions of the Constitution and any other laws relating to compulsory acquisition of land.



# Environmental Easements Way Forward

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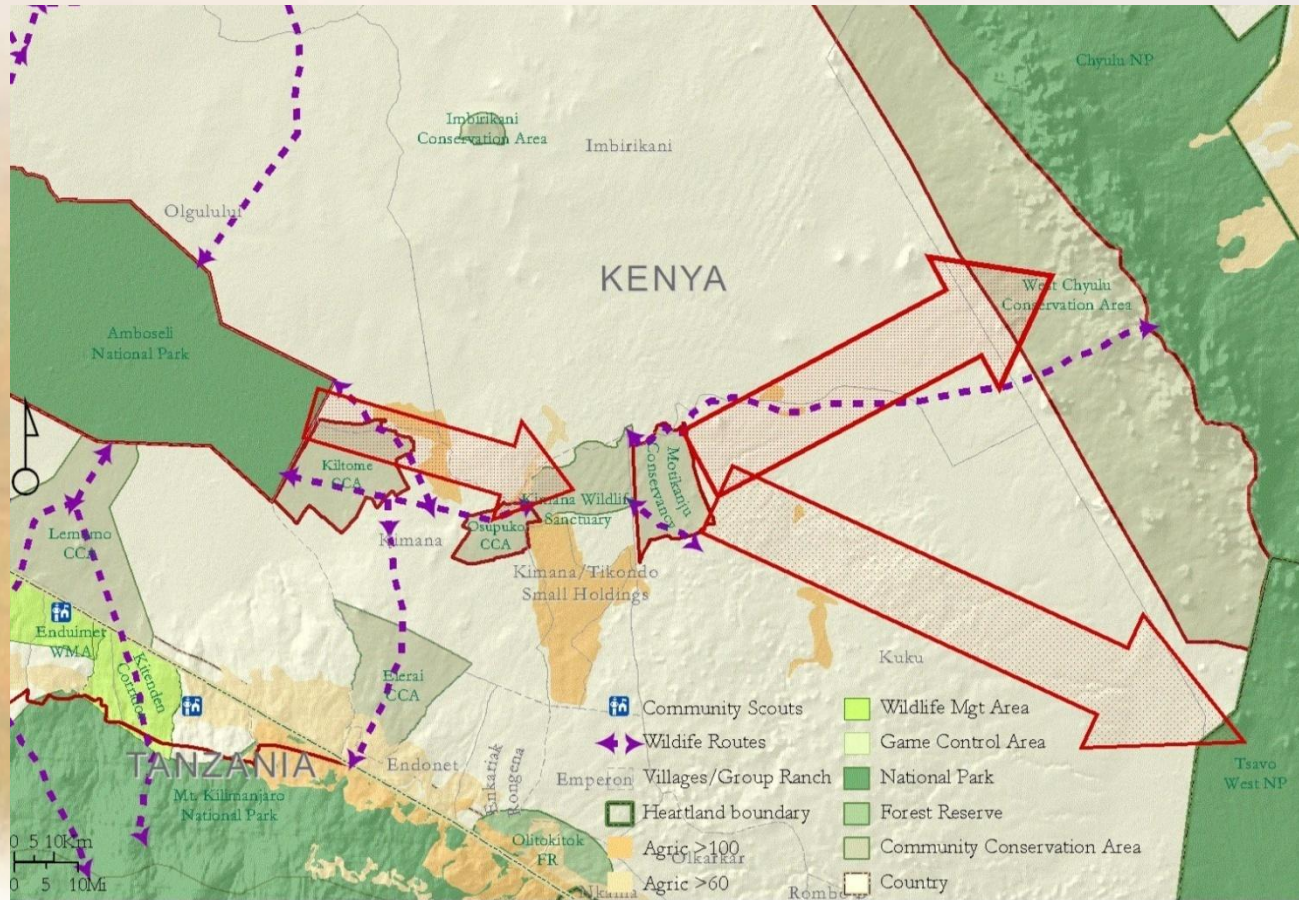
- Pilot easements
- Legislation recognizing voluntary easements
- Standards for valuing easements
- Stipulation on who holds easements
- Kenya Land Conservation Trust





# Environmental Leases

## 1963 Registered Land Act: Section 45





# Critical Elephant Corridor & Dispersal Area





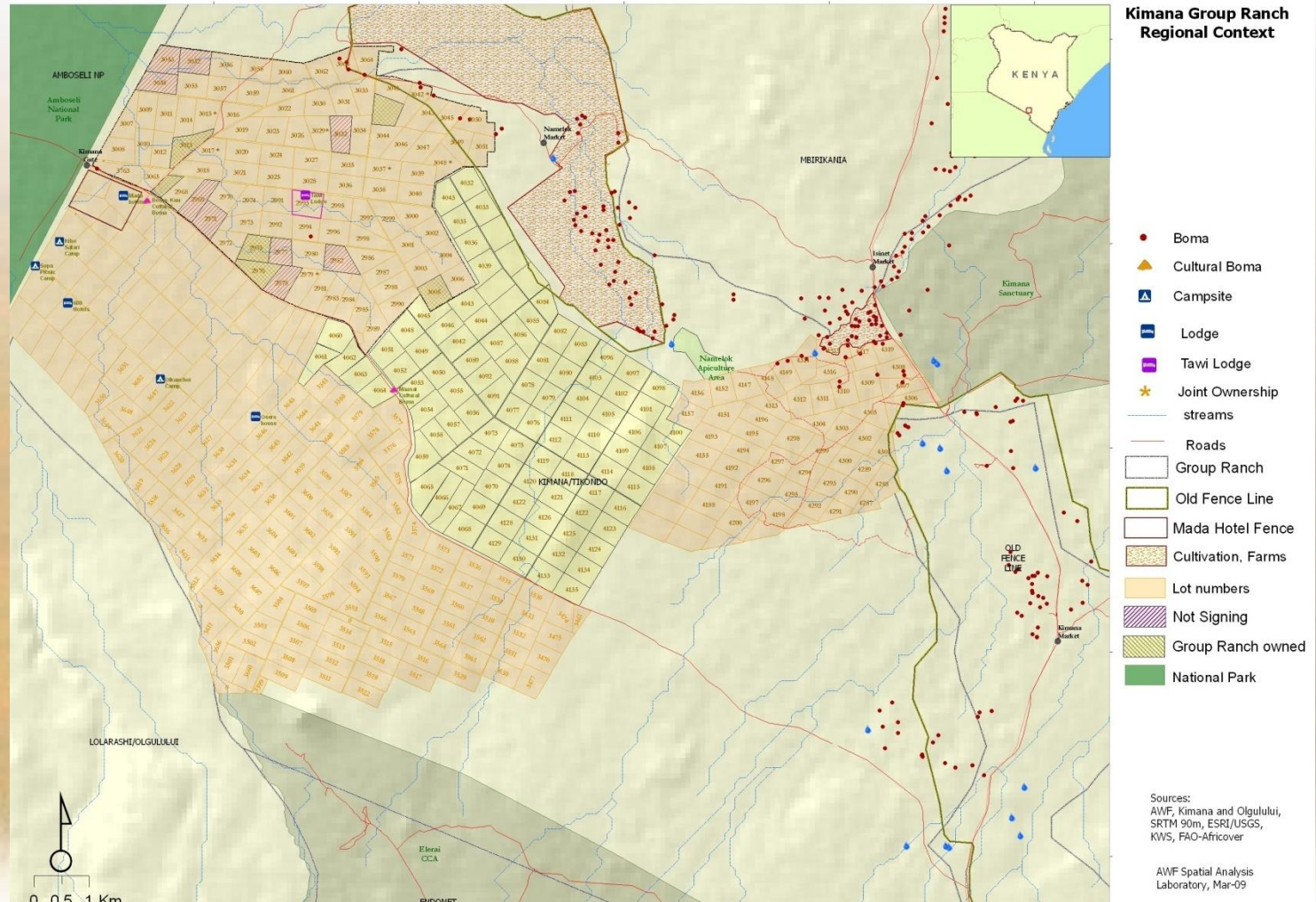
# Arid Landscape



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# Sub-divided Landscape





# Environmental Lease

1. 150 Landowners+
2. Legal Mechanism:  
Agreement to Lease/Lease
3. Maasai Attorney
4. 500 kshs/acre
5. 2.5% annual increase
6. Direct Deposit in Bank Accounts
7. Employment
8. Community Monitoring



# Environmental Lease: Agricultural Land

## Land Control Act

### Transactions Effecting Agricultural Land

6. (1) Each of the following transactions:  
(a) the sale, transfer, lease, mortgage, exchange, partition or other disposal of or dealing with any agricultural land which is situated within a land control area;

Section 9 limits dealings with agricultural land to Kenyan Citizens, Kenyan Corporations. Exemption may be sought from the President of the Republic of Kenya.



# Challenges

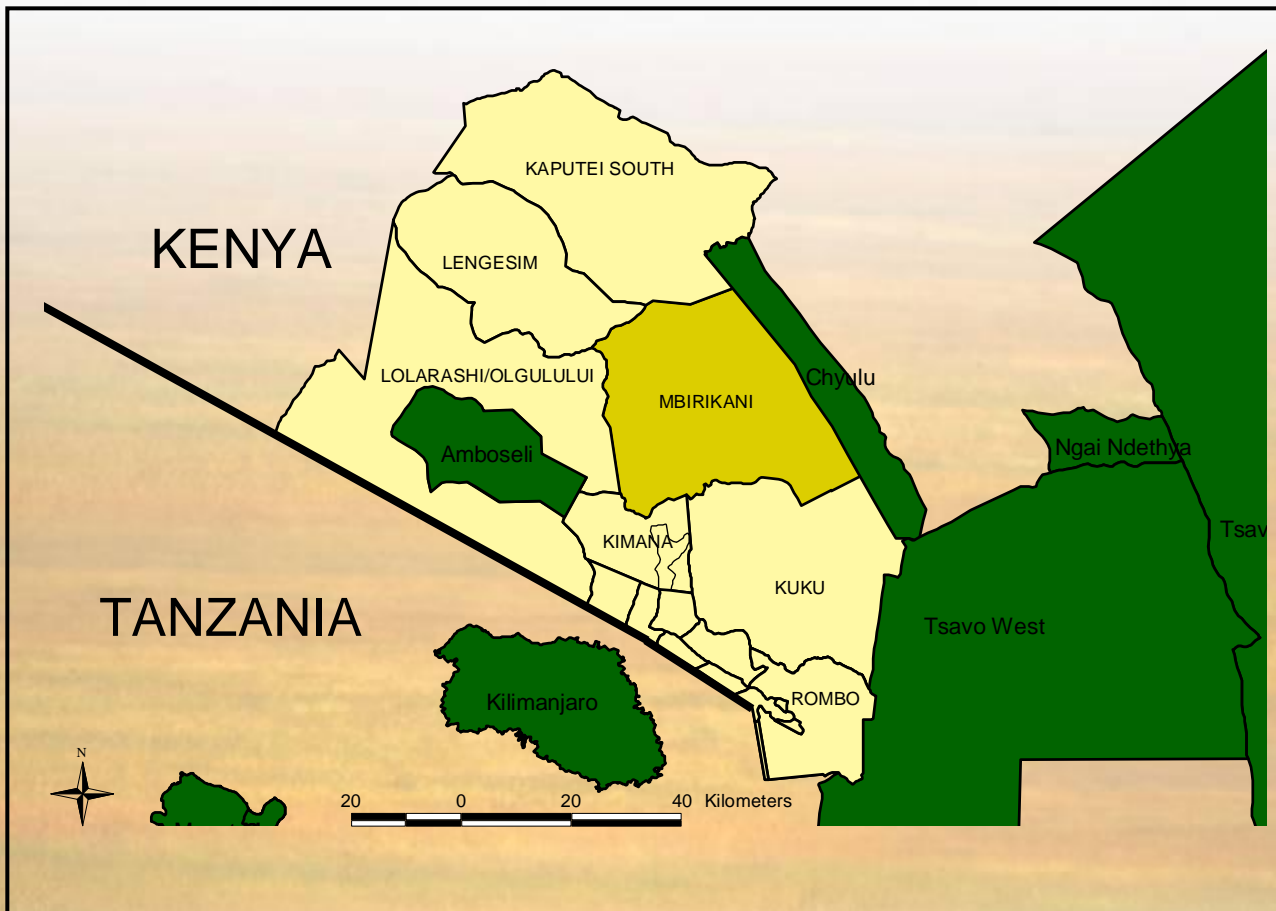
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1. Long Term Sustainability
2. Annual Payment
3. Title and Shifting Parcels
4. Competition
5. Can Not Benefit All
6. Everyone Can Not Have a Lodge



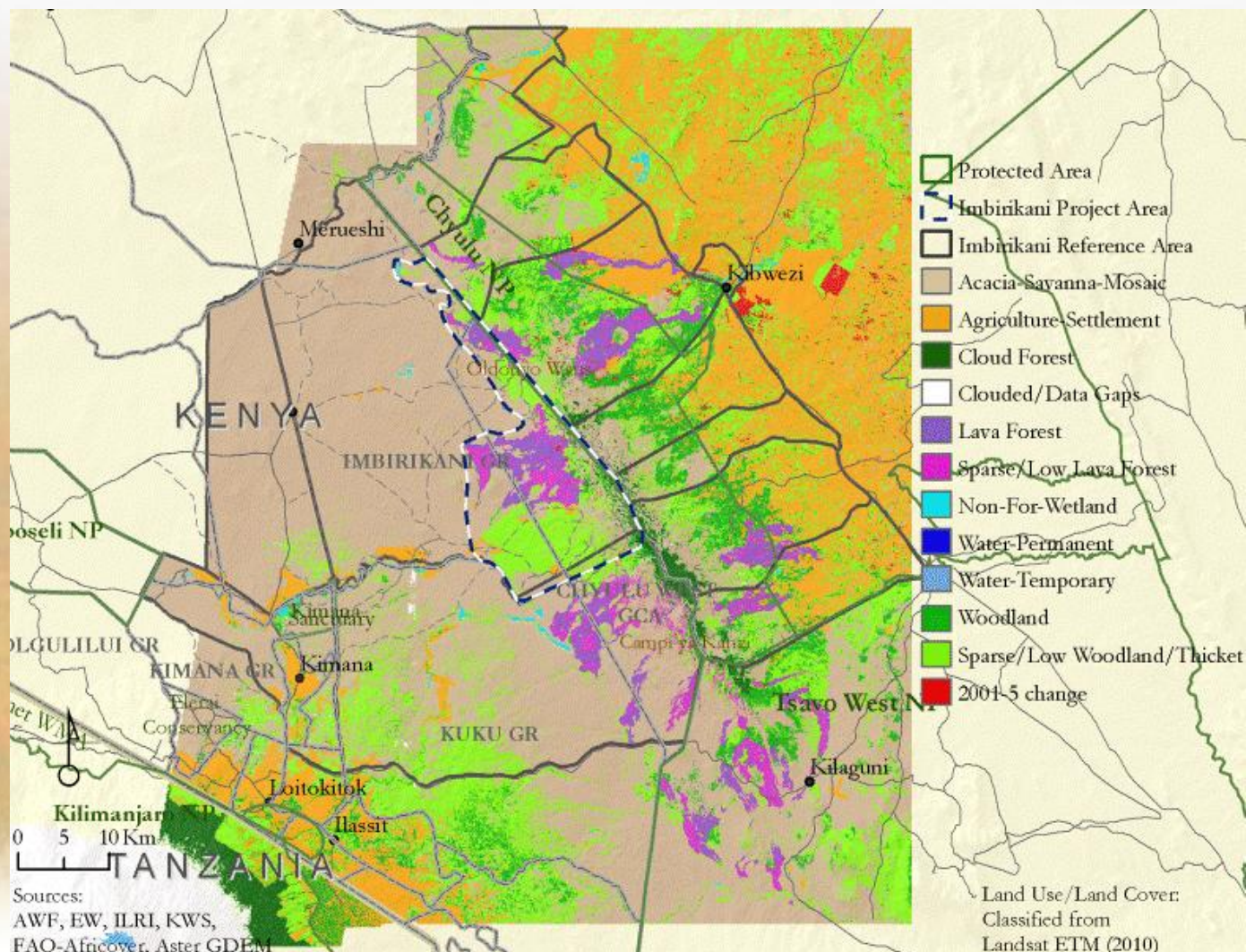


# Carbon Credit Program



320,000 acre group ranch  
4,500 members

# Carbon Credits: Imbirikani Group Ranch



# Threat: Deforestation and Degradation

**Table 4. Project activities to address deforestation drivers**

Deforestation driver	Project activity				
	Forest management plan	Community policing	Reforestation	Other alternative livelihoods	Awareness raising
Encroachment for agriculture		✓		✓	✓
Harvesting poles for building manyattas (house)	✓	✓	✓		✓
Harvesting poles for building bomas (cattle enclosure)	✓	✓	✓		✓
Harvesting trees for medicinal products	✓	✓	✓	✓	✓
Harvesting tree to make 'rungus' (walking sticks)	✓	✓	✓	✓	✓
Fires resulting from honey harvesting	✓	✓			✓
Harvesting for timber	✓	✓	✓		✓
Harvesting sandalwood	✓	✓	✓		✓
Harvesting 'khat'	✓	✓	✓		✓
Charcoal	✓	✓	✓		✓





# Carbon Mitigation

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1. Hectare study site: 19,600 hectares: cloud forest, dryland forest, lava forest
2. Group Ranch Land
3. Scoping assessment to determine viability
4. PINN/PDD complete
5. Alternative livelihood projects underway: tree plantation, alternative energy, forest restoration
6. Legal Mechanism
7. Share Model for Benefit Distribution: house hold payment
8. Voluntary Market: VCS/CCB registration



# Challenges

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1. Source of Deforestation
2. Time Lag
3. Changing Study Site
4. Its Not All About Money
5. Cost
6. GIS Requirements

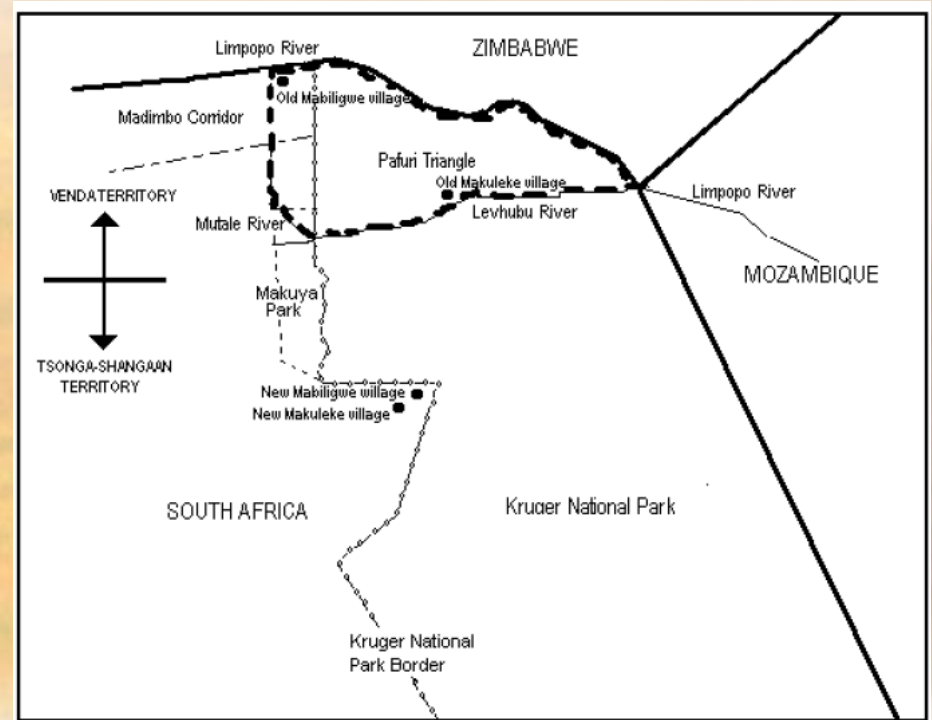


# Co-management Agreements

Co-management used with the settlement of land claims in SA. A PAA enters into an agreement with a community to manage their land in exchange for certain benefits.

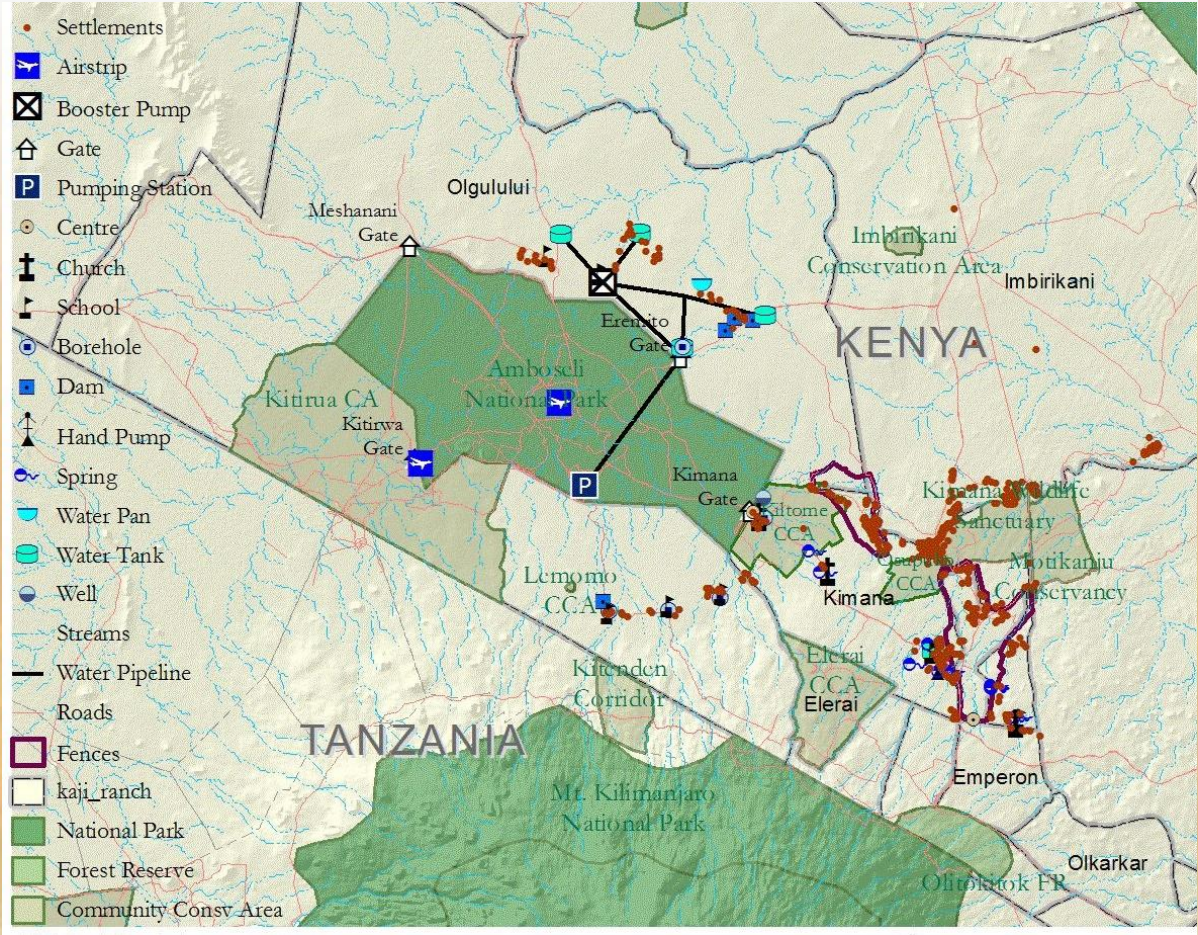
Makuleke Community owns the land. SANParks manages the land for them as per a 50-year agreement. The National Environmental Management Protected Areas Act guides co-management in protected areas.

Arrangements vary from PA Authority consulting on an ad-hoc basis with the communities to a formal approach where co-management agreement is signed between the PAA and the community.





# Co-management Agreements in Kenya?





# Thank You

[www.awf.org](http://www.awf.org)

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[kfitzgerald@awfke.org](mailto:kfitzgerald@awfke.org)

