

33082 / 1A

CO 533 / 465  
KENYA

38082 / 1A

EAST AFRICAN POWER AND LIGHTING CO., LTD.

ACQUISITION OF LAND FOR THE DEVELOPMENT OF MARAGUA-TANA HYDRO-ELECTRIC POWER SCHEME INCLUDING MEMORIAL BY THE MARAGUA ASSCN.

Previous											
Subsequent	1951										
	207	27									
	217	27									
	S.C.P.A. 1957										
	297										
	40	98									

1. P.S. to Capt. Guest.----- 25 April, 1936.  
Transmits for consideration Memorial received from  
the Maragua Association protesting against effect of  
the development of the Power Station on Native  
Settlement.

C.I. Electric  
Power.  
Nairobi.

Letters

In the various conversations which I have had with Mr. Sneyd and Mr. Fitzgerald I have gathered the impression that the East African Electric Light and Power Company has now come to the conclusion that the only thing to do is to develop the Maragua-Tala Power Scheme and find some other company to buy the low voltage hydro grounds which will be drowned out upon the dam is built. This they have done according to the memorial by purchasing many European farms (which can be bought) and handing them over to the aboriginal natives. It will be observed from the plan enclosed in the memorial that there are Native reserves all round the ridge anyhow so a little more does not seem to make very much difference to the amenities of the ~~vicinity~~.

Mr. Fitzgerald told me that his impression was that the whole thing had been done in very carefully by the Company, the Administrative Officer and several other people including the European Elected Members of Council who were convinced that no harm would be done to anyone. The fact accounts for the channel taken by the Association, and the ~~remains on page 3 that they are not entitled to state minutes~~.

The real object of the thing can be seen from the covering letter which comes from a certain Colonel Friswell. In the fourth paragraph he says that the Company is a very rich London company charging exorbitant rates here and so far they have made no attempt to put up any scheme or to compensate us for the damage they are doing" and in the fifth paragraph adds: "The whole ridge could be bought

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Mr. FitzGerald told me that his impression was that the whole thing had been gone into very carefully by the Company, the Administrative Officer, and several other people including the European Elected Members of Council who were convinced that no harm would be done to anyone. This last accounts for the channel taken by the Association, and the <sup>remark on page 3 that they are not members of elected members.</sup>

The real object of the thing can be seen from the covering letter which comes from a certain Colonel Irwin. In the fourth paragraph he says that the Company is a very rich London company charging exorbitant rates here and so far they have made no attempt to put up any scheme or to compensate us for the damage they are doing" and in the fifth paragraph adds: "The whole ridge could be bought

for between £15,000 and £20,000 which for a company that is going to spend a quarter of a million is not a very small amount. Put into plain English that means that they are impoverished workers for the vic. I think that they have a chance of blinding the company into buying them out, thereby enabling them to secure good money for unsaleable farms. This was my view on reading the papers and it is fully confirmed by Mr. FitzGerald.

The memorial does not say very much or produce any particular grounds beyond that some of the natives are spreading disease and cattle cannot be much increased, the insularity of the natives vary very much whether they are a little bit of the hill or not. As for the safety of the natives, any house as a memorial is not as wide as in any case there is a work in it because on their own they are very poor. They mention that the natives are already in a Native Reserve and they are on the place and although they may be 2 miles from the nearest house yet there is approximately, on their own showing, 2 miles average between houses on the foot of it.

The question is what is to be done with the memorial. It is addressed to the Secretary of State, is not signed and comes to us through Captain Guest. The memorial is a collection of the natives say they are preparing a memo for transmission via the Col. Sec. This is the first to

**A**

*Mr. FitzGerald's view is that the natives are not as poor as they are made out to be. There is a great deal of land available for them.*

*an advance*  
 to secure that this is a copy of what is coming through the ordinary way, in which case it can be considered, and that meantime the Secretary of State's Private Secretary might reply to Captain Guest's Private Secretary as per draft herewith.

*1.1.36*  
*1.15.36*  
*(The natives think that they are going to come to an agreement with the Col. Sec. if they are satisfied with the offer.)*

*The action in this case is to be taken, and we need to consider further the merits of the memorial. While the natives are no doubt in the right, I find myself not of opinion that...*

*22 Sept 1936 Altkam (M. P. Sec.) (G. Sec.) 26 MAY 1936*

*of telephone etc*

Comments in detail on the application of the Company to exchange certain properties for lands in the Kikuyu Native Reserve required for the scheme, and sets out, for approval, terms on which it has been decided to effect this transfer. Encs also a petition from the Maragua Asscn. but proposes not to comment on this as it is hoped that local settlement may be possible.

No. 5 It will be recalled that the Maragua-Tana hydro-electric scheme was devised to meet the growing demands for electricity in Nairobi and the surrounding districts and that the scheme involves (a) the flooding of approximately 1400 acres of land situated in the Native Reserves on both sides of the Tana River, and (b) the exclusion of that area from the Native Reserves.

The conditions governing the exclusion of land from a Native Reserve required for public purposes are set out in section 433 1b of the Native Land Trust Ordinance, and para. 8 of the despatch shows that those conditions will be fulfilled. At the expense of the E.A.P. & L. Co. 3828 acres of land will be added to the Native Reserve in exchange for the 1400 acres of land to be flooded and adequate compensation will be paid to the natives.

vide para. 10 of the despatch.

There is this point, however, that the land to be added to the Reserves adjoins certain European-owned farms on the Maragua Ridge, and the occupants have petitioned the Secretary of State that the settlement of natives in that area will render their farms practically valueless and involve a danger from the spread of disease through the trespass of native cattle and the insanitary habits of the natives themselves. They suggest also that there will be a danger to the European women and children.

The petitioners ask that if the Maragua-Tana scheme goes through, Government should settle the

the natives in some area which would not detrimentally affect their farms, or that the Company should be obliged to purchase the entire Ridge

The Governor does not comment on the petition at this stage, since it is hoped that discussions locally may lead to a settlement. (N.B. It is a condition of the exclusion from the Reserve that the Company should indemnify Government against any damages or costs or other expenses which Government might incur in respect of any claims which might be made by the occupiers of the farms in the vicinity in connection with the alteration of the Native Reserves boundaries.)

However, all this seems premature, because if the Company cannot get the extension of their distributing licence for which they have applied (Nos. 15 and 16 on sub-11a), it is doubtful whether they will proceed with the Maragua-Tana scheme.

(sgd) C.A. Grossmith  
9.6.36

C. G. Foster and Lighter ..... 8th May, 36.

Comments on the points raised in the petition, and is fully prepared to go into the question of land exchanges.

Mr. Flood

Advise Mr. Shearer since the receipt of No. 1

It may be put by.

(sgd) C.A. Grossmith  
25.6.36

11/16/36 314

This has been circulating with 32082/1/36

I do not know what Mr. Flood has seen Mr. Shearer since No 4. He saw Mr. Brown (the Secretary of the Co.) on 16/6, but there is no record - No 23 on 30/6/1/36 that this is mentioned. In any case there would be no point in mentioning

at the end - see of the  
said statement at the end of para  
7 of No. 3 that a local settlement  
of the question for the purpose  
tenant may be effected.

As regards the matter  
the matter has been considered  
by all the presided arbitrator  
& I see no reason why the  
proposals should not be approved;  
but I must approve with a caveat  
that the defendant must be  
prepared to maintain in good  
the way

In the case of the  
plaintiff's wish to continue  
in the matter after the  
the issue of it.

It is proposed  
I have also of the  
The case of the  
and it is unnecessary  
& I do not see why  
as to that  
with  
1937

See hand of 6/5/36. 5 to Sir J. Byrnes (C.D. 4) (S/O) case - 5 AUG 1936

38082/1A.13a

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5

C. O.

Mr. Paswin 2177.

Mr.

Mr.

Sir C. Parkinson.

Sir G. Tomlinson.

\* Sir C. Bottomley 2578

Sir J. Shuteburgh.

Perhu. U.S. of S.

Parly. U.S. of S.

Secretary of State.

For Sir C. Bottomley's sig.

5 AUG 1936

C.D.  
27 JUL  
D.H. Ang

My dear Byrne.

In connection with your  
dep. No 236 of the 8<sup>th</sup> of May, I  
sincerely enclose a copy of a  
letter from Mr Shearer of the  
East African Power & Lighting  
Company in which he  
states that the  
the drainage of the  
area of the exchange of land  
will not arise as a  
practical issue until  
the works have all been  
for the necessary funds to  
enable them to be undertaken  
the drainage of the area  
& that the drainage  
is a practical  
main business point  
apart from the  
you will of course  
appreciate that the S. of S.  
cannot formally approve  
your proposals until the  
reimbursement of the tenants

DRAFT.

Sir Joseph Byrne  
S.C.N. G., K.B.E., C.B.

From Mr Shearer 21/5/36 (No. 4)

FURTHER ACTION.

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points out that the  
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will not arise as a  
practical issue until  
the Board have been able to arrange  
for the necessary funds to  
enable them to undertake  
the proposed transaction  
& that the Government  
is prepared  
to discuss the  
main business position.

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appreciate that the S. of S.  
cannot formally approve  
your proposals until the  
removal of the tenants

DRAFT.

Sir Joseph Byrnes  
G.C.N.G., K.B.E., C.B.

~~For Mr Shearer 21/5/36 (No. 4)~~

FURTHER ACTION.



of the farms on the ridge is out  
of the way. It is therefore not proposed  
to reply to your desp. until we  
hear further from you on this point.

So far as the natives are  
concerned I have found nothing in  
their reports that the S. G. will

be prepared to oppose your proposals  
but you to which we allude in the S. G.  
this will be welcome  
to you, but this } will probably be the  
most exp. of land revenue policies,  
which will

Yours sincerely

(Signature) BOTTOMLEY

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to report that there will probably be the  
usual crop of land  
which will

Yours sincerely,

W. J. TOMLIN

# The East African Power & Lighting Company, Limited.

(Incorporated in Kenya Colony under the Indian Companies Acts 1882 to 1900 as applied to that Colony.)

21st May, 1936.

London Office:

66, QUEEN-STREET,  
LONDON. E.C.4.

J.E.W. Flood, Esq., C.I.C.  
Colonial Office,  
Downing Street,  
S.W.1.

RE  
4/E B JUL 1936  
C. O. FLOYD

Dear Mr. Flood,

Kenya Colony.  
Maragua-Tana Hydro-Electric Scheme.

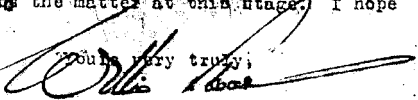
I am advised from Nairobi that a petition from the settlers on the Maragua Ridge has been addressed to the Secretary of State for the Colonies through His Excellency the Governor of Kenya.

The petition stated that if the farms which the Power Company purchased some years ago with the approval, and I believe at the suggestion, of the Kenya Government are added to the Native Reserve (in exchange for land to be flooded) the privately owned estates adjoining the farm (as was referred to) will have their values lowered so that, apart from any legal claim for compensation, the settlers considered that they had a good claim in equity.

Even if there would be a moral liability, it is, of course, upon the necessary improvement in the present position, without which there is no possibility of the main Maragua-Tana scheme being carried out, that we, therefore, rather unnecessarily to discuss the claim at this stage.

Our solicitors consider that the settlers have no claim, and they also advised that the matter is really somewhat trivial.

If, however, conditions emerge under which we could tackle the Maragua-Tana hydro-electric scheme, we should naturally be pleased to go into the question of the land exchanges and their possible effect on neighbouring estates, but it does seem a little premature to discuss the matter at this stage. I hope

Yours very truly,  


WS/LFR.

KENYA.

No. 236



3 X 1  
GOVERNMENT HOUSE,  
NAIROBI,  
KENYA.

8 MAY, 1936.

Sir,

161001  
With reference to Lord Passfield's despatch No. 992 of the 17th November, 1930 and subsequent correspondence on the subject of the Naragua - Tana hydro-electric scheme, I have the honour to inform you that the East African Power and Lighting Company, Limited has now applied for the acquisition of approximately 1,400 acres of land in the Aikuyu Native Reserve, being the area which it is estimated will be flooded on the erection of the dam under the scheme.

Approximately 700 acres are required on each side of the Tana River where it forms the boundary between the Fort Hall and Embu Districts. To illustrate the proposals I enclose a plan showing in blue the area applied for and in red the land offered in exchange, to which I shall now refer.

2. It will be seen from the plan that the Company has offered eight farms aggregating 2,036 acres which the Company either owns or holds on lease with an option to purchase, and a further area (shown with red border) consisting of eight unalienated farms, aggregating 1,791 acres, which it is prepared to acquire from Government for the purpose. Six of the farms totalling 1,611 acres are conveniently situated for addition to the Fort Hall native reserve and the others are adjacent to the Embu native reserve (which has recently

been/.....

THE RIGHT HONOURABLE

J. H. THOMAS, P.O., M.A.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET,  
LONDON, S. W. 1.

been enlarged by the addition of a considerable area of what was formerly Nyert Native Reserve) though on the opposite side of the river. The Company is, however, prepared to construct a light traffic bridge to link up this area with the Native Reserve.

3. In accordance with the procedure laid down by the Native Lands Trust Ordinance the Company's application was referred in the first instance to (a) the natives concerned (b) the Local Native Councils and (c) the Local Land Boards with the following results.

In the Fort Hall District, 115 of the natives concerned attending the meeting agreed to the exclusion of the land and 100 natives opposed it.

The Local Native Council recommended the exclusion provided that an extra area of 200 acres was added to the land offered in exchange, and the Local Land Board endorsed this recommendation.

In the same District the natives concerned objected to the proposed exclusion of land. The Local Native Council approved the exclusion but recommended that the Company should pay to the Council the cash value of the land offered and that 20 acres should be added to the Reserve. Since ample land was available for the dispossessed natives and the area it was suggested to add was outside that they requested be added.

When the matter was referred to the Local Land Board the Board recommended that, in order to comply with the provisions of Section 10 (1) of the Native Lands Trust Ordinance, four of the farms amounting to 807 acres should be accepted in exchange for the 700 acres of Native Reserve land to be flooded and that the East African Power and Lighting Company should pay to the Local Native Council funds the purchase price of the remaining farms.

5. The Company's application was considered by the Central Native Lands Trust Board on the 5th March. In regard to the Fort Hall recommendation that a further 350 acres should be added to the land already offered by the Company the Board recorded the opinion that the area already offered was adequate and were unable to recommend that the Company should be required to provide the additional area of 350 acres. In this connexion I may state that I am satisfied that the Company would find it very difficult to acquire at a reasonable price the additional area asked for, and that when the recommendation was under consideration by the Board the Chief Native Commissioner and the Acting Provincial Commissioner both expressed the view that the request for an addition to the land offered was made merely as a matter of principle and that the Local Native Council had no particular area in view.

6. In regard to the Embu District the Board endorsed the recommendations of the Local Land Board to the effect that the four farms totalling 807 acres should be added to the Embu Native Reserve and that money to the value of the remaining farms should be paid to the funds of the Embu Local Native Council.

7. The Board was informed that representations had been made on behalf of certain European occupiers of farms in the neighbourhood of the land to be added to the Native Reserve, to the effect that such addition would result to the detriment of their farms inasmuch as they would be brought into close proximity to the Native Reserve, and that in the circumstances government had requested the company to indemnify government against any damages or costs or other expenses which it might incur in respect of any claim which might be made. The board was

of/.....

10

of the opinion however that the anticipated disadvantages were exaggerated.

In this connexion, however, I enclose for your consideration a Memorial on the subject addressed to you by the settlers in question, which had recently been received. I propose not to comment on the memorial at this stage since it is hoped that consensus on a discussion with their Solicitor and the East African Power and Lighting Company a local settlement may be effected.

To sum up, the members of the Central Native Lands Trust Board, unanimously consent to the exclusion of the 1,400 acres from the Fort Hall and Embu Native Reserves subject to the following conditions:-

- (i) that 1200 L. O. Nos. 3492, 3493, 3494, 3495, 3496 and 1964 aggregating 1,611 acres should be added to the Fort Hall Native Reserve;
- (ii) that 200 L. O. Nos. 3516, 3518, 3519 and 3519 amounting to 807 acres should be added to the Embu Native Reserve and that the East African Power and Lighting Company should pay to the Local Native Council the amount of the value of L. O. Nos. 1983, 1984, 1985, 3514, 3515 and 3517;
- (iii) that the Company should pay compensation for disturbance amounting to Shs. 8,600/- in respect of the Fort Hall Reserve and to Shs. 10,336/84 in respect of the Embu Reserve;
- (iv) that the Company should arrange for the construction of a light traffic bridge over the Embu River to link up L. O. Nos. 3518, 1986, 3518 and 3519 with the existing Embu Native Reserve, and also of two suitable bridges over the canal between the dam and the power house in order that native-owned stock might be grazed on grass between it and the Embu River; and that the Company should provide on the canal two suitable drinking places for stock;
- (v) that the Company should indemnify Government against any damages or costs or other expenses which Government might incur in respect of any claims which might be made by the occupiers of the farms in the vicinity in connexion with the alteration of the native reserve boundaries.

9. In view of the fact that the Central Native Lands Trust Board was unable to support the recommendation of the Fort Hall Local Native Council and the Local Land Board/.....

Board regarding the additional 350 acres, I have in accordance with the provisions of the Native Lands Trust Ordinance to request your approval of the terms recommended by the Central Land Board which I regard not only as equitable but also as generous.

10. In support of my view I would point out that the total area offered by the company in exchange for the area of approximately 1,400 acres to be excluded amounts to 3,826 acres and that in addition compensation for disturbance amounting to Shs. 8,600/- and Shs. 10,336/84 respectively, or a total of Shs. 18,936/84, is to be paid by the Company to the natives concerned. The amount of compensation has been assessed on the following valuation which has been accepted by both the Fort Hall and Embu

Local Native Councils:-

Planted land	at Shs. 12/- an acre
Bananas in bearing	at Shs. 1/- each
Bananas not in bearing	at Shs. .50 each
Huts	at Shs. 60/- each
Stores and other small huts	at Shs. 20/- each

11. In conclusion it is desirable that I should refer to the attitude of the natives concerned - that is to say those who are residing on or cultivating or grazing over the area to be flooded. The relative numbers are as follows:- In the Fort Hall District 235 natives have rights in the area, of whom 15 reside either on the land to be flooded or so adjacent thereto that they will have to move in consequence. In the Embu District 145 have rights on the land, of whom 97 reside there. You will have noted that a bare majority of those attending the Fort Hall meeting agreed to the exclusion, while those belonging to the Embu District objected to the exclusion. You will have noted also that both the Local Native Council and both the Local Land Boards decided that these objections should be over-ruled, ~~as~~ has the Central Native Lands Trust Board. In my opinion and in the opinion of  
my/.....

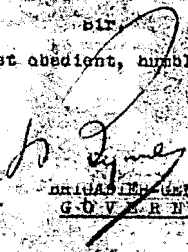


my advisers, the objections put forward were based not on actual hardships, or even inconvenience, that the natives concerned would suffer but on general principle, the principle being that, according to the traditional custom of the Kikuyu tribe, a native cannot surrender or permanently transfer land which he has inherited from his forefathers. I trust you will agree that an important public purpose such as that now under discussion cannot forever be frustrated by rigid adherence to such a principle, provided, of course, that departure from the principle involves no actual hardship to anyone concerned in its observance. In this particular case, the compensation in actual land is more than generous, while the compensation for disturbance is at least more than adequate.

I have the honour to be,

Sir,

Your most obedient, humble servant,



UNITED STATES GENERAL  
GOVERNOR

MEMORIAL.

Re. NATIVE OCCUPATION OF MARAGUA RIDGE.

23rd. April 1936.

To  
The Right Honourable  
His Majesty's Secretary of State for the Colonies  
Downing Street,  
LONDON, S.W. 1

Sir,

Re. Native Occupation of Maragua Ridge  
and Scheme of E.A. Power & Lighting Coy. Ltd.

We respectfully beg to bring to your notice certain facts in connection with the proposals for the settling of natives who may lose the lands at present occupied by them owing to flooding operations, which we understand, will become necessary for the implementing of what is known as the Tana Scheme for increase of electric power in Kenya.

We are in occupation of farms spread over what is known as the Maragua Ridge, which farms, in addition to other farms, covering the whole of the Maragua Ridge were originally allocated under the Soldier Settlement Scheme.

The position of these farms will be apparent by reference to the sketch plan which is forwarded herewith.

We have never been officially informed of the exact details of the proposed scheme, but in the month of January of this year two of the Directors of the E.A. Power & Lighting Coy. Ltd. informed some of our number of the nature of the scheme and also intimated that the scheme had already been approved by Government.

We would add that in the month of December last the District Commissioner of the district concerned came upon the lands with certain of the native chiefs who have been occupying the area which it is proposed to flood and pointed out to them

the lands which it was proposed should be allocated to them in exchange for flooded land.

Shortly, we understand the scheme to be that the natives who are dispossessed as the result of flooding should be allocated areas lying between our farms in the manner indicated upon the sketch plan forwarded herewith.

When the farms were originally allocated under the Soldier Settlement Scheme it was clearly represented that the whole of the Mangun Ridge would continue to be reserved for white settlement and - even without such representation - it would appear from a reference to the sketch plan above referred to that it would be quite inequitable to plant a native location or reserve in the position indicated, involving as it would the danger of spreading disease through the trespass of native goats and cattle and the insanitary habits of the natives themselves.

The road of ~~the~~ the main road would run through the proposed native location and the existence of a reserve in the position indicated would, in our opinion, render our farms practically valueless.

Apart, however, from the depreciation in the value of the farms which would result from the carrying out of the proposed scheme, there is the further question of the safety of the women and children residing on our farms.

To take the particular case of Mrs. A. R. Tullis - if the scheme goes through she will be surrounded on three sides by land occupied by natives and her residence is 2 1/2 miles from the nearest house, while, with regard to the other farms occupied by us, there is approximately an average of two miles between the various houses.

When the interview above referred to with the Directors of the E. J. Power & Lighting Co. Ltd. took place, we

the lands which it was proposed should be allocated to them in exchange for flooded land.

Shortly, we understand the scheme to be that the natives who are dispossessed as the result of flooding should be allocated areas lying between our farms in the manner indicated upon the sketch plan forwarded herewith.

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In take the particular case of Mrs. A. R. Tullis - If the scheme goes through she will be surrounded on three sides by land occupied by natives and her residence is 2½ miles from the nearest house, while, with regard to the other farms occupied by us, there is approximately an average of two miles between the various houses.

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