



# Briefing

No. 13 | Oct. 2016

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## Main Points

Cross River State is home to some of the largest remaining forests in Nigeria. Through government policies and rare community conservation efforts, the forests have remained largely intact, attracting the interest of the UNREDD.

This conservation effort seems to have been jettisoned with the State government embarking on the construction of a massive highway through the forests without due process or consultation.

Aside negating the policy of the government on climate change, the road construction is violating the livelihood rights of several forest dependent communities, whose rights to land have been revoked.

## THE CROSS RIVER SUPERHIGHWAY: Route to Land Grabs?



### INTRODUCTION

More than fifty percent of the remaining tropical forests in Nigeria are in southeastern Cross River State. The forests, which are rich in biodiversity and have supported local livelihoods, have been protected by the communities where they are located, NGOs and the government at federal and state levels. The ecologically important Cross River National Park and other forest reserves in the state have been threatened by

commercial loggers and property speculators for decades. However, one of the biggest threats to the forests so far may be the Cross River Super-Highway project, announced in 2015 as the main development programme of a new administration in the state, which emerged following general elections in that year. When built, the road would commence from a proposed “deep seaport” to be sited near Akpabuyo in the mangrove forest zone close to the Atlantic coast. From there, the highway would proceed northwards, traversing areas with some of the most important rainforests globally, to Katsina-Ala in Benue State, part of the Nigerian Middle Belt. A major concern is that the road would provide immediate access to illegal loggers and property speculators who all threaten not only the ecosystem but the human communities that have depended on resources of the forests for livelihoods. It is for this reason that the highway project is opposed by citizens groups and some of the communities that are supposed to benefit from the road project.

The Super-Highway also calls to question the viability of forests in Cross River State serving as a carbon sink. Already, the state and federal governments welcomed the possibility of earning revenue through the controversial United Nations-backed Reducing Emissions from Deforestation and Forest Degradation (UN-REDD+) scheme. REDD+ is an international carbon offset scheme which promises to pay developing countries for conservation of forests that offset the greenhouse gas emission of developed countries. However, residents

and citizens' groups have queried the way REDD+ has been implemented in Cross Rivers State without consultation, and without regard for the rights and livelihoods of forest dependent communities. While environmental campaigners in the state have expressed divergent opinions on the appropriateness of REDD+, they are united in expressing concerns that the Super Highway project portends further doom for the forests.

In this report, Social Action presents a detail of contradictions in government policy towards forest resources. While the previous administrations in Cross River State worked hard to implement REDD+, depriving the citizens of their livelihood sources, the new government is committed to a road project that would undermine REDD+. The report presents voices of community members to show that the process of constructing the Super-Highway exposes citizens to abuses and rights violations. Issues of environmental impact, including the statutory Environmental Impact Assessment (EIA), were not given proper attention before the commencement of the project.

## **DEVELOPMENT OR LAND GRABBING?**

Shortly after assumption of office as Governor of Cross River State on May 29, 2015, Ben Ayade made known his intention to construct a 'Super Highway'. According to the Governor, the road would connect the coastal communities in the south of the state with the northern part of the state. The government is proposing a deep sea

port in the Mangrove forests of the Akpabuyo/Bakkasi area close to the Atlantic Ocean. From here the road would proceed northwards to Katsina-Ala, in Benue State which is in the areas known as the Middle Belt of Nigeria. Between the two points, the road would cut through some of the preserved rainforests.

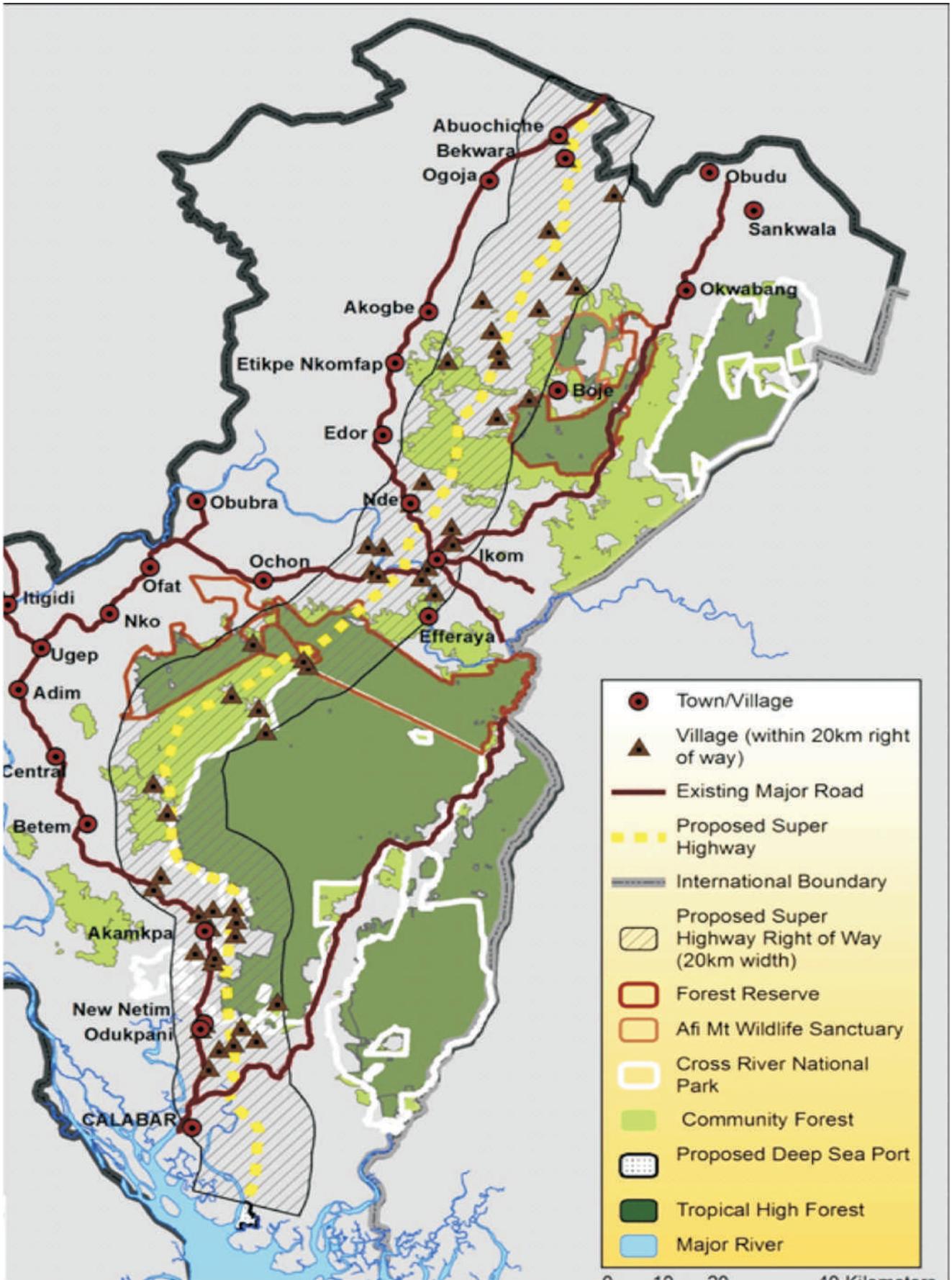
Before the Super-Highway project, Cross River was generally perceived as a model of forest conservation. Through government policies and support, the rate of depletion of the forests had been significantly reduced. Despite the rejection of the project by affected communities and many civil society organisations, the state government commenced preliminary construction activities including bulldozing trees. This was done despite suggestions that an existing road to the same destination could be better maintained and improved upon rather than destroy the forest. Community members and civil society groups in the state urged the governor to work with the federal government to upgrade or dualise the existing Calabar-Ikom-Obudu highway, which appalling state is the reason the Super-Highway seemed viable. Upgrading the existing road would reduce the cost to the state government since the federal government would take the bill. This option would also reduce ecological impact considerably. However, Governor Ben Ayade opted to push on with his new Super Highway against public wisdom.

The rush to commence construction aroused curiosity as budgetary provisions and details of contracting were unclear to

residents of the state. It was later revealed that an Israeli company, Broad Spectrum Industrial Services Limited (BSIS) is the funding partner with state government. Still, the contractual relationship between the administration and the company remains opaque. The project is estimated to cost US\$3.5 billion. However, during a meeting with the leadership of Broad Spectrum and Governor Ben Ayade in June 2015, the firm offered to fund the project themselves and promised to invest 500 million Euros in the road project and seaport with minimal financial involvement from the state.<sup>1</sup> As a counterpart funding recovery strategy, toll gates would be constructed on the road when completed. To the government and the company, the superhighway project is a revenue and profit generating venture through toll payments from users.

The secrecy, stubborn determination and phenomenal speed at which the governor proceeded with the road project, against public outcry, influenced theories about ulterior motives. The reality is that Cross River land resources are heavily coveted by speculators and commercial plantation developments. In the era of carbon offsets, when title holders of forests could sell carbon credits, land is acquiring a new attraction for property speculators. In this case, the handing over of an area of 20 km of forests throughout the proposed 260 km stretch of the road to a private company can best be described as land grab. Indeed, some stakeholders note that Governor Ayade is discussing with foreign companies over commercial plantations to be sited on land being acquired for the Super Highway.

<sup>1</sup>Channels Television (2015); Cross River seals deals with Israeli firm, retrieved June 2016 from <http://www.channelstv.com/2015/07/02/cross-river-seals-deal-with-israeli-firm/>.



Map showing proposed Super Highway Route.  
Source: Wildlife Conservation Society

## **SUPER HIGHWAY REVENUE VERSUS CARBON TRADING**

While the Super-Highway is being pushed for quick revenue and profits, the project could undermine another scheme that promises same for the state: REDD+. In 2012, Nigeria officially embraced the United Nations Reducing Emissions from Deforestation and Forest Degradation (UN-REDD+) following the signing of an agreement on August 28th in Abuja by the federal government of Nigeria, Government of Cross River State and the UN Resident Coordinator in Nigeria. With more than 50% of the remaining tropical forest in Nigeria in Cross River State, the UN-REDD+ scheme was touted as a viable option to preserving the forests while providing revenue to the government. The signing of the Memorandum of Understanding came with a budget of USD\$4million for REDD+ Readiness activities, which the Cross River State government and UN agencies have been implementing collectively.

The process of preparing Cross River State for REDD+ has been severally faulted by communities and some civil society organisations as a land grabbing scheme which barred community members from the forest and forest-based livelihoods. While community concerns about REDD+ had not been addressed, the Super Highway further threatened community access to land. For community members, it is either the state government stops them from entering the forests because of REDD+, or the same government clears the forest for the construction of a Super

Highway. Incidentally, the highway, in opening up the forests, also threatened the possibility of implementing REDD+ in Cross River State.

Beyond the forest reserves, the project would affect forest areas protected by communities, including 33,600 hectares of Ekuri forests which would be cleared. These forests had been set aside for the UN-REDD+ project in the state. It is conclusive therefore that if the Super Highway project continues, Nigeria and Cross River State would cease to be a part of the UN-REDD scheme. Already, with ongoing work on the Super Highway project, government, its agencies and associated contractors are enriching themselves through the sale of woods pulled down by bulldozers and other forest resources at the expense of local people.

## **SUPER HIGHWAY PROJECT AND ENVIRONMENTAL IMPACT ASSESSMENT CONTROVERSIES**

In constructing the Super Highway, the Cross River State government ignored the Environmental Impact Assessment (EIA) Act of 1992. Under this legislation, any construction project that is likely to have a significant impact on the environment or the people must have an EIA carried out; and must receive an environmental permit from the Federal Ministry of Environment before forest clearance work of any kind can take place. If the sub-regional government had followed the law, it would have organised, as part of the EIA process, documented consultative meetings with a

broad range of affected stakeholders before the final project design is concluded and approved. In the case of Cross River State, however, the superhighway project was short of this due process, thus, raising and causing serious concerns leading to mass dissent including street protests by communities who stand to be adversely affected by the project. The enormous impact of the project on one of Nigeria's last surviving rainforests and the impact on the lives of about one million people cannot be over-emphasized.

The Government of Cross River State had gotten an interim EIA approved to enable the ceremonial flag-off of the project on 20th October 2015 by President Muhammadu Buhari. However, the state government did not proceed to comply with the requirements for a full EIA before it commenced clearing of forests started in February 2016. With affected community members raising concerns, the Federal Ministry of Environment issued a "Stop Work Order" in March 2016.<sup>2</sup> This order confirms a violation of existing environmental and construction legislation by the Cross River State government on the superhighway project.

Public concerns about EIA compelled the state government to engage a consultant, PMG Nigeria Limited to carry out the assessment of the project which was done without consultation with communities or stakeholders. The company submitted a 443page EIA report to the Federal Ministry of Environment in March 2016. The draft EIA is pending the approval of the federal government. However, many aspects of the

EIA have been faulted by Social Action partner organisation, Rainforest Resource Development Centre (RRDC). According to the Executive Director, Mr Odey Oyama, the EIA report contains some misinformation as a deliberate attempt to mislead the public and the Federal Ministry of Environment. The RRDC Director further informed that their "conclusions are based on the fact that critical elements of the project (the buffer zones covering an expansive land mass of 20km throughout the length of the project has been deliberately omitted" in the PMG EIA Report. According to the RRDC, "the buffer zone, which comprises about 95 to 96 percent of the territory acquired for the project (5,200 square kilometres), and threatens to place more than 180 indigenous communities on forced migration, cannot be omitted from the EIA Report without rendering the entire document invalid...Having, therefore, failed to provide the Federal Ministry of Environment with the most fundamental data essential for appraising the impacts of the said superhighway project on over one million indigenous people and the associated ecosystems, the EIA Report is thus a deficient, non-compliant, flawed, deliberately doctored and unfit document that cannot be relied upon in the matter of processing any form of approval for the project".<sup>3</sup>

Meanwhile, the state government continued with the road construction even while the draft EIA was being produced. As at 23rd March 2016, Social Action observed that bulldozers were actively clearing forests. Other construction works, including excavation of a building

<sup>2</sup>Cross River Watch, retrieved June 7, 2016 from <http://crossriverwatch.com/2016/05/super-highway-governor-ayade-meets-minister-of-environment/>

<sup>3</sup>Rainforest Resource Development Centre (RRDC). (2016). Our Rainforest Today, Vol. 002/2016. 20 May, 2016.

foundation said to be a 'laboratory', was ongoing at Okuni community in Ikom Local Government Area. This was in disregard to federal government order that work be suspended.

As the Cross River State government continued with project construction, even before the EIA was approved, the federal government's National Environmental Standard and Regulations Enforcement Agency (NESREA) in April 2016 dragged the Cross River State Infrastructure Company and Borad River Construction Company to court. The federal agency sought a motion Ex Parte to stop the construction as there was no EIA. NESREA accused the Cross River State Government of violating extant environmental laws such as the NESREA (Establishment) Act 2007, Environmental Impact Assessment Act, Cap. E12 LFN 2004 and National Environmental (Construction Sector) Regulation S.I. NO.19 of 2011 by continuing construction without EIA "thereby destroying the ecosystem and seriously endangering the flora and fauna within the area".<sup>4</sup>

NESREA's litigation followed a letter dated 17th February 2016 in which the federal agency stated its concerns about the Super-Highway to the Cross River State Commissioner of Works. In the letter, the commissioner was reminded about laws being violated. The Federal Ministry of Environment also wrote to the Cross River State Governor highlighting similar concerns. The Governor failed to heed the warnings of federal authorities.

Due to the unprecedented response of the Federal Ministry of Environment, which acted to enforce the law in response to community protests, the Cross River State Government belatedly proceeded with developing an EIA. In concluding the belated EIA process on the project, issues of community and individual land rights, livelihoods, compensation, relocation of affected communities, Memorandum of Understanding with the affected communities have not been addressed. As these communities are home to many people displaced by the ceding of Bakkasi Peninsula to Cameroon in 2007, the dislodgment of people for the road project would further compound social problems. Through participatory monitoring that involved Social Action, community members and members of civic organisations in Cross River State, it was confirmed that the government had continued with construction work before the EIA was approved, and in disregard to request by federal authorities.

## **IMPACT OF PROJECT ON FOREST-DEPENDENT COMMUNITIES**

Over 180 communities will be affected by the Super Highway project. These communities have an estimated population of over one million people. The state government proceeded with the road project with total disregard for the impact on the local population. On 22nd January 2016 the Ministry of Lands and Urban Development of Cross River State placed a notice in the state government owned Weekend Chronicle newspaper in

<sup>4</sup>Punch Newspaper, April 23, 2016. Retrieved June 7, 2016 from <http://www.punchng.com/fg-drags-c-river-to-court-over-superhighway/>

where it revoked all community titles to land to be used for the road in the name of “overriding public purpose absolutely”.<sup>5</sup> The publication informed that the government would compulsorily acquire 20km setback of land along the entire 260km Right of Way from Bakassi in Cross River State to its border with Katsina-Ala in Benue State. This fiat effectively threatened to make communities along the route landless and homeless without consultations. From the publication, communities, stakeholders and those who owned lands or reside along the said routes including institutions were given two weeks within which to lodge their objection or complaints. The government was acting based on powers granted to it by Nigeria's controversial Land Use Act. By that fiat, community members were transformed to trespassers on their own lands. Community members, with customary and ancestral right to land, would now take permission or buy their lands from the government before farming, building houses or for any productive or cultural use.

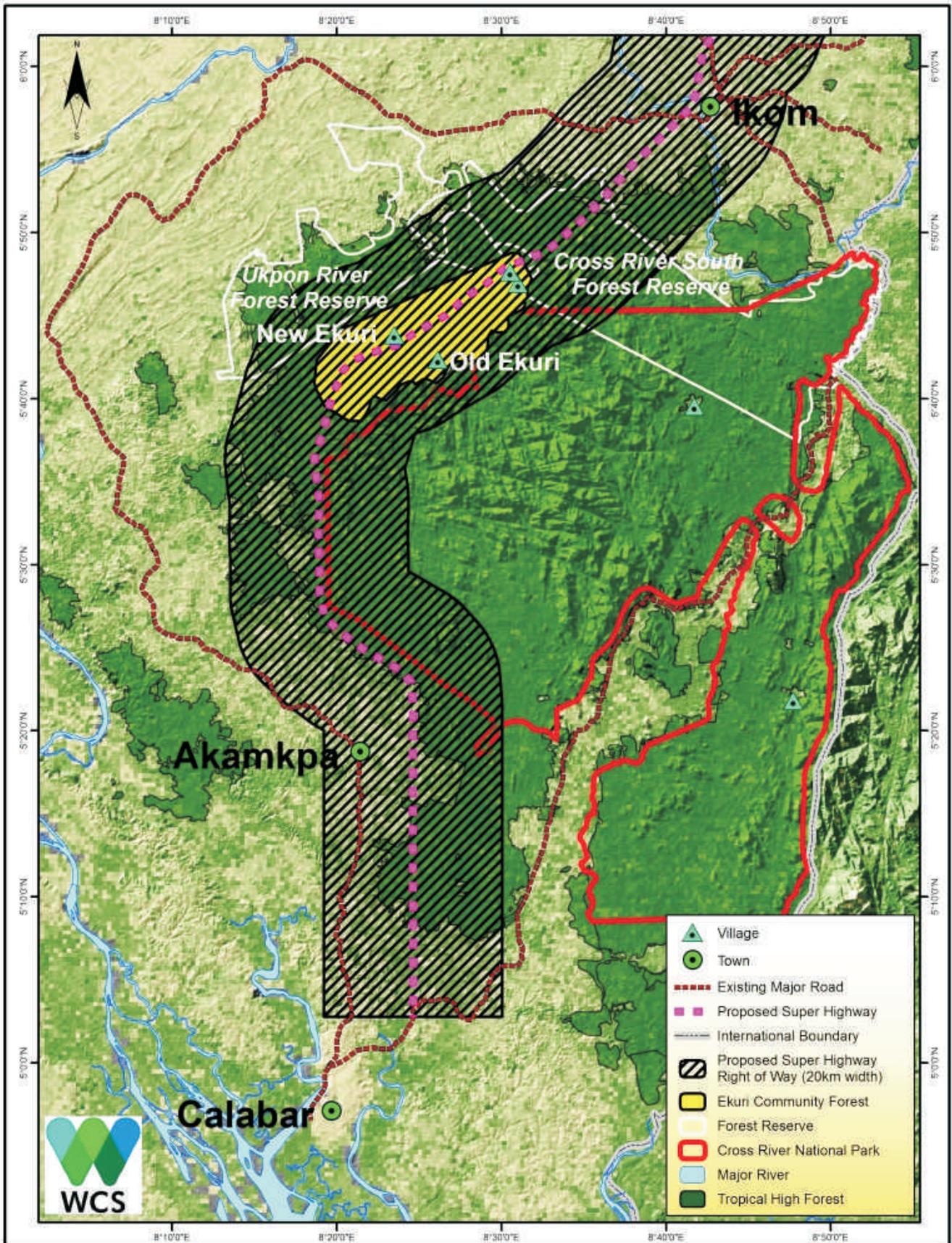
Furthermore, the EIA report produced by the consultants to the Cross River government did not capture the impacts of the road project on the members of over 180 communities. These communities were also not included in the project map.<sup>6</sup> Affected communities protested their exclusion. For example, the members of Ekuru community sent a protest letter to the federal and state governments on 7th February 2016 objecting the project. They demanded that the project be stopped until

a new route could be found. They vowed to resist the project through peaceful means. Neither the Federal nor state government responded to the letter till the revocation of their rights and title to land in the forests on 22nd February 2016, and subsequent commencement of forest clearing.

All affected communities in Cross River state have raised one concern or the other over the impact of the Super Highway project on their forest and livelihoods. For instance, the whole of Old and New Ekuri communities located in Akamkpa Local Government Area would be affected by the project. Old and New Ekuri have over 33,600 hectares of primary forests preserved over the years by the community. The community is surrounded by the Cross River National Park and other community managed forests. Ekuri's 33,600 hectares of community forest is home to some rare and endangered wildlife and plant species including Nigeria-Cameroon chimpanzee, some of the last forest elephants in West Africa. The people of Ekuri have depended on the forests food, medicine and other forest produce. With the Super Highway project, these resources and cultural heritage of the people are threatened.

<sup>5</sup>Cross River Weekend Chronicles January 22, 2016, “NOTICE OF REVOCATION OF REVOCATION OF RIGHTS OF OCCUPANCY FOR PUBLIC PURPOSE LAND USE ACT 1978”

<sup>6</sup>This prompted civic organisations to produce alternative maps with shows how the project would affect the communities.



Map showing that Ekuri would be dislodged by Right of Way of proposed Cross River Super Highway.  
Source: Wildlife Conservation Society

The Ekuri communities refused advances of logging companies in the 1990s who offered to build roads in exchange for logging rights. The community turned down the offer. Later on, the community requested the World Wide Fund (WWF) and the UK's Overseas Development Administration (now the Department for International Development) to assist them in preserving their forest. With the support of these organisations, the “Ekuri Initiative” was born and have since served as the platform for forest management and preservation for the communities. This conservational effort was rewarded in 2004 by United Nations Development Programme (UNDP) with the Equator Initiative Award for their outstanding contribution to biodiversity conservation.

## **CONCLUSION: REVISITING COMMUNITY RECOMMENDATIONS**

The proposed Cross River Super Highway may have been presented as a development project that would improve government revenues. However, consideration has to be made for the enormous social and ecological costs. All of those factors should be considered in determining whether to proceed with the project. If development is supposed to benefit the people, then their voices and concerns should be considered. As it stands, there is an alternative to the proposed Super Highway, which is the existing Calabar-Ikom-Ogoja Road. Any decision should be made only after

consideration of community and civil society concerns and the cheaper and most efficient alternatives presented. Social Action supports, and, therefore, reiterates the requests of members of Ekuri community and other stakeholders in Cross River State who have asked that the Federal Government should prevail on the state government to:

- Suspend all forest logging, felling of trees and clearing of forests already commenced in the state without an EIA permit from the Federal Ministry of Environment and rescind the recent revocation of community land title along the Super Highway Right of Way.
- Examine all alternative routes for the so-called “super-highway” that avoids destruction of the Ekuri community forests and other forested parts of Cross River State.
- Carry out a thoroughly participatory and transparent review of the ecological, socio-cultural, economic, financial and reputational impacts of the so-called “super-highway” before it precipitates a man-made disaster for Cross River State and Nigeria.
- Similarly, the civil society community in Cross River State has made some demands, including
- That the state government should partner with the federal government to dualise the existing Calabar-Ikom-Ogoja highway, rather than build a new Super Highway.

- That environmental impact assessment be carried out on the project with considerations for the option of jettisoning the project in favour of more efficient and ecologically considerate options.
- Address all concerns raised by affected communities about the project, livelihoods and damages to communities that will erode their culture and identities reserved over the years.



A publication of Social Development Integrated Centre (Social Action), October 2016

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This briefing is produced in the frame of Social Action's Resource Justice and Climate Justice programmes, with the support of the **Tikva Fund/Tides Foundation** and the **Rosa Luxembourg Foundation**.