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SNA  
27/3/18

Paper laid by Hon  
Kareke Mbiuki, MP  
Chairperson DC on  
Environment & Natural  
Resources  
Tuesday 27/3/18  
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THE NATIONAL ASSEMBLY

12<sup>TH</sup> PARLIAMENT – SECOND SESSION - 2018

DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL  
RESOURCES

REPORT ON THE VETTING OF MR. JOHN MORANGI OMENGE, A  
NOMINEE FOR APPOINTMENT TO THE POSITIONS OF PRINCIPAL  
SECRETARY FOR MINING

DIRECTORATE OF COMMITTEE SERVICES,  
CLERK'S CHAMBERS,  
PARLIAMENT BUILDINGS,  
NAIROBI

MARCH, 2018

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PARLIAMENT BUILDINGS,  
NAIROBI

MARCH, 2018



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## **CHAIRPERSON'S FOREWORD**

The Committee wishes to thank the Offices of the Speaker and the Clerk for the logistical support accorded to it during the vetting exercise. Further, the Committee wishes to thank all the stakeholders for their participation in the approval hearings.

Having considered the suitability, capacity and integrity of the nominee, and pursuant to Article 155(3) of the Constitution and Section 8 (2) of the Public Appointments (Parliamentary Approval) Act No. 33 of 2011 and Standing Order 216 (5) (f) of the National Assembly, the Committee recommends that the National Assembly approves the nomination of Mr. John Morangi Omenge for appointment by H.E. the President to the position of Principal Secretary for Mining.

On behalf of the Departmental Committee on Environment and Natural Resources, and pursuant to Article 155(3) (b) of the Constitution and Section 8(1) of the Schedule to the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), it is my pleasant duty to table the Report of the Committee on the vetting of Mr. John Morangi Omenge, a nominee for appointment to the position of Principal Secretary for Mining for debate and adoption by the House.



## EXECUTIVE SUMMARY

Pursuant to Standing Order 42 (1), the Speaker on Thursday 15<sup>th</sup> March, 2018 communicated to the House a message from H.E. the President regarding, among others, the nominee to the positions of Principal Secretary for Mining, Mr. John Morangi Omenge. The Speaker further informed the House that H.E. the President was seeking the approval of the National Assembly on the said nomination before appointment.

In accordance with Standing Order 42(3) (c), the Speaker having read the Message from the President referred the name of the nominee together with his curriculum vitae to the Departmental Committee on Environment and Natural Resources to conduct approval hearings. The Speaker advised the Committee to conduct extensive public participation as provided for under Article 118 of the Constitution as well as the Public Appointment Parliamentary Approval Act (No.33 of 2011) and report to the House within 14 days.

The Departmental Committee on Environment and Natural Resources was assigned the role of conducting the vetting of the aforesaid nominee. The following statutes/provisions guided the Committee as it executed this mandate:

- (i) The Public Appointments (Parliamentary Approval) Act (No. 33 of 2011);
- (ii) Chapter 6 of the Constitution on leadership and integrity;
- (iii) Article 232 of the Constitution on values and principles of public service;
- (iv) Article 10 of the Constitution on the national values and principles of governance;
- (v) The Leadership and Integrity Act (Cap. 182);
- (vi) The Public Service (Values and Principles) Act (No. 1A of 2015)
- (vii) The Public Officer Ethics Act (Cap. 183)

The Committee having considered the nominee's Curriculum Vitae, other written and oral and submissions during the vetting exercise, made the following observations that the nominee:

1. Had satisfied the requirements of chapter six of the Constitution of Kenya on Leadership and Integrity having been cleared by: The Ethics and Anti-Corruption Commission, the Directorate of Criminal Investigations, the Kenya Revenue Authority on Tax Compliance, Higher Educations Loans Board (HELB) and the Registrar of Political Parties.
2. Has never been charged with a criminal offence in a court of law and has no potential conflict of interest with regard to the position he had been nominated to.
3. Has never been dismissed from office for contravention of the provisions of article 75 of the Constitution which deals with conduct of State Officers that are adversely mentioned in any investigatory report of Parliament or any commission of inquiry.
4. Has the necessary qualifications and extensive experience in the public service as seen from the documentation presented to the Committee.

5. Has the right attitude and commitment to serve in the position for which he had been nominated as observed from the way he responded to the Members' questions on water related issues during the approval hearing.
6. Does not hold office in any political party hence satisfies the provisions of Article 77(2) of the Constitution;
7. Exhibited impressive knowledge and understanding of issues relating to the docket he had been nominated for appointment.

Having considered the suitability, capacity and integrity of the nominee, and pursuant to Article 155(3) of the Constitution and Section 8 (2) of the Schedule to the Public Appointments (Parliamentary Approval) Act No. 33 of 2011 and Standing Order 216 (5) (f) of the National Assembly, the Committee recommends that the National Assembly approves the nomination of Mr. John Morangi Omenge for appointment by H.E. the President to the position of Principal Secretary for Mining.

## 1.0 PREFACE

### 1.1 Establishment of the Committee

The Departmental Committee on Environment and Natural Resources is one of the fifteen (15) Departmental Committees of the National Assembly established under **Standing Order 216** whose mandates, pursuant to the **Standing Order 216 (5)**, are to, among others;

- a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
- b) study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;
- c) study and review all the legislation referred to it;
- d) study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
- e) investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
- f) vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No.204 (Committee on appointments);**
- (fa) examine treaties, agreements and conventions;
- g) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
- h) consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
- i) examine any questions raised by Members on a matter within its mandate.

### 1.2 Mandate of the Committee

In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider matters related to:

- i) Climate Change
- ii) Environment Management and Conservation
- iii) Forestry
- iv) Water Resource Management
- v) Wildlife
- vi) Mining and Natural Resources
- vii) Pollution and Waste Management

In executing its mandate, the Committee oversees the following State Departments, namely:

- The State Department for Water Services;
- The State Department of Environment and Climate Change;
- The State Department for Natural Resources Management; and
- The State Department of Wildlife
- The State Department of Mining

### **1.3 Committee Membership**

The Committee on Environment and Natural Resources was constituted by the House in December, 2017 and comprises of the following Members: -

- |                                               |                         |
|-----------------------------------------------|-------------------------|
| <b>1. The Hon. Kareke Mbiuki, M.P.</b>        | <b>Chairperson</b>      |
| <b>2. The Hon. Sophia Abdi Noor, M.P.</b>     | <b>Vice Chairperson</b> |
| 3. The Hon. Benjamin Jomo Washiali, M.P.      |                         |
| 4. The Hon. David Kangogo Bowen, M.P.         |                         |
| 5. The Hon. Francis Chachu Ganya, M.P.        |                         |
| 6. The Hon. Ali Wario Guyo, M.P.              |                         |
| 7. The Hon. Beatrice Cheron Kones, M.P.       |                         |
| 8. The Hon. Charity Kathambi Chepkwony, M.P.  |                         |
| 9. The Hon. Hilary Kiplang'at Kosgei, M.P.    |                         |
| 10. The Hon. Peter Kimari Kihara, M.P.        |                         |
| 11. The Hon. Benjamin Dalu Tayari, M.P.       |                         |
| 12. The Hon. Charles Ong'ondo Were, M.P.      |                         |
| 13. The Hon. Nasri Sahal Ibrahim, M.P.        |                         |
| 14. The Hon. Rozaah Buyu, M.P.                |                         |
| 15. The Hon. Said Hiribae, M.P.               |                         |
| 16. The Hon. Hassan Oda Hulufu, M.P.          |                         |
| 17. The Hon. Amin Deddy Mohamed Ali, M.P.     |                         |
| 18. The Hon. Rehema Hassan, M.P.              |                         |
| 19. The Hon. (Eng.) Paul Musyimi Nzengu, M.P. |                         |

### **COMMITTEE SECRETARIAT**

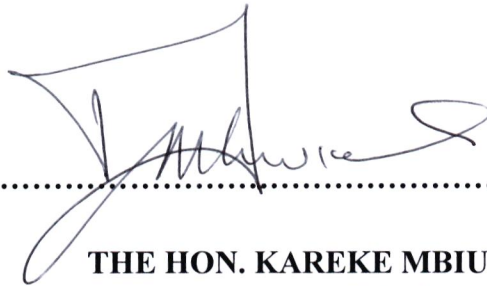
- |                             |                              |
|-----------------------------|------------------------------|
| 1. Ms. Esther Nginyo        | - Clerk Assistant/Lead Clerk |
| 2. Mr. Dennis Mogare Ogechi | - Third Clerk Assistant      |
| 3. Mr. Salem Lorot          | - Legal Counsel II           |
| 4. Ms. Winnie Kulei         | - Researcher                 |
| 5. Ms. Yunis Amran          | - Fiscal Analyst III         |

### **1.4 Committee Recommendation**

Having considered the suitability, capacity and integrity of the nominee, and pursuant to Article 155(3) of the Constitution and Section 8 (2) of the Public Appointments (Parliamentary Approval) Act No. 33 of 2011 and Standing Order 216 (5) (f) of the National Assembly, the Committee recommends that the National Assembly approves the

nomination of Mr. John Morangi Omenge for appointment by H.E. the President to the position of Principal Secretary for Mining.

SIGNED: .....



**THE HON. KAREKE MBIUKI, M.P.**  
**CHAIRPERSON,**  
**DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL**  
**RESOURCES**

DATE: ..... 27/3/2018 .....

## **2.0 INTRODUCTION**

### ***2.1 Message from H. E. the President***

Pursuant to Standing Order 42 (1), the Speaker on Thursday 15<sup>th</sup> March, 2018 communicated to the House a message from H.E. the President regarding, among others, the nominee to the positions of Principal Secretary for Mining.

The Speaker further informed the House that H.E. the President was seeking the approval of the National Assembly on the said nomination before appointment.

In accordance with Standing Order 42(3) (c) the Speaker having read the Message from the President referred the name of the nominee together with his curriculum vitae to the Departmental Committee on Environment and Natural Resources to conduct approval hearings. The Speaker advised the Committee to conduct extensive public participation as provided for under Article 118 of the Constitution as well as the Public Appointment Parliamentary Approval Act (No.33 of 2011) and report to the House within 14 days.

### ***2.2 Nomination and appointment process***

Article 155 (3) of the Constitution provides for the process of nomination, approval and appointment of the Principal Secretaries. The Constitution provides that the recruitment of officers to public office should be conducted in a competitive, transparent and fair process before nomination for appointment by H.E. the President with the approval of the National Assembly.

The National Assembly having received the name of the nominee was obligated to conduct approval hearings and make a determination of the nominees' suitability or otherwise within fourteen days as provided for in section 8 (1) of the Public Appointments (Parliamentary Approval Act) (No.33 of 2011).

### ***2.3 Committee Proceedings***

During the approval hearings, the Committee held a total of three Sittings to examine and review the nominee's certificates, testimonials, consider public views and hold approval hearing with the nominees (Minutes of the proceedings are attached to the Report as annex 1).

### 3.0 BACKGROUND INFORMATION

#### 3.1 Legal framework

1. Article 155 of the Constitution provides as follows—

*155. (1) There is established the office of Principal Secretary, which is an office in the public service.*

*(2) Each State department shall be under the administration of a Principal Secretary.*

*(3) The President shall—*

*(a) nominate a person for appointment as Principal Secretary from among persons recommended by the Public Service Commission; and*

*(b) with the approval of the National Assembly, appoint Principal Secretaries.*

*(4) The President may re-assign a Principal Secretary.*

*(5) A Principal Secretary may resign from office by giving notice, in writing, to the President.*

2. In light of this, H.E. the President had nominated Mr. John Morangi Omenge for appointment as Principal Secretary, State Department for Mining.

The Departmental Committee on Environment and Natural Resources was assigned the role of conducting the vetting of the aforesaid nominee. The following statutes/provisions guided the Committee as it executed this mandate:

- (i) The Public Appointments (Parliamentary Approval) Act (No. 33 of 2011);
- (ii) Chapter 6 of the Constitution on leadership and integrity;
- (iii) Article 232 of the Constitution on values and principles of public service;
- (iv) Article 10 of the Constitution on the national values and principles of governance;
- (v) The Leadership and Integrity Act (Cap. 182);
- (vi) The Public Service (Values and Principles) Act (No. 1A of 2015)
- (vii) The Public Officer Ethics Act (Cap. 183).

#### ***a). The Public Appointments (Parliamentary Approval) Act (No. 33 of 2011)***

Section 7 of the Public Appointments (Parliamentary Approval) Act, (PAPAA), provides for issues which the relevant House of Parliament (in this case, the National Assembly) is supposed to consider in relation to any nomination. These issues include:

- a) *the procedure used to arrive at the nominee;*
- b) *any constitutional or statutory requirements relating to the office in question; and*
- c) *the suitability of the nominee for the appointment proposed having regard to whether the nominee's abilities, experience and qualities meet the needs of the body to which nomination is being made.*

Although the Constitution does not specifically provide for the qualifications for appointment (or nomination) of a Principal Secretary, the schedule to the Public Appointments (Parliamentary Approval) Act provides for the criteria to guide the Committee. These are:

- Education, employment record;
- Public office, political activities and affiliations;
- Deferred income or future benefits;
- Sources of income, tax status, statement of net worth;
- Potential conflicts of interest;
- Pro bono or charity work;
- Whether the nominee has been charged in a court of law or convicted;
- Adverse mention in an investigatory report of a Parliamentary Committee or Commission.

During the approval hearing, section 6 of the Public Appointments (Parliamentary Approval) Act (PAPAA) provides important points, that is:

- An approval hearing shall focus on a candidate's academic credentials, professional training and experience, personal integrity and background (section 6(7), PAPAA)
- The criteria specified in the Schedule shall be used by a Committee during an approval hearing for the purposes of vetting a candidate (section 6(8), PAPAA)
- Any person may, prior to the approval hearing, and by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated (section 6(9), PAPAA)
- A candidate may, at any time, by notice in writing addressed to the Clerk, withdraw from the approval process and the candidate's nomination shall end (section 6(10), PAPAA).



***b). Chapter 6 of the Constitution (Leadership and Integrity)***

The Committee, in determining the suitability of the nominee, took into consideration the provisions on leadership and integrity as outlined under Chapter Six of the Constitution. In particular, the Committee took cognizance of the following provisions:

- i) Article 73 (2) of the Constitution which provides that the guiding principles of leadership and integrity include –
  - a) selection on the basis of personal integrity, competence and suitability, or election in free and fair elections;
  - b) objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favoritism, other improper motives or corrupt practices;
  - c) selfless service based solely on the public interest, demonstrated by —
    - i) honesty in the execution of public duties; and
    - ii) the declaration of any personal interest that may conflict with public duties;
  - d) accountability to the public for decisions and actions; and (e) discipline and commitment in service to the people.
- ii) Article 75(1) of the Constitution that requires a State Officer, whether in public or private life to behave in a manner that avoids conflict between personal interest and public official duties and Article 75(3) of the Constitution that prohibits a State Officer who has been removed from office under that Article from holding any other State Office.
- iii) Article 77(1) of the Constitution that prohibits a full time State Officer from participating in any other gainful employment.
- iv) Article 77(2) of the Constitution that prohibits an appointed State officer from holding office in a political party.
- i) Article 78 of the Constitution that disqualifies persons who are not Kenyan Citizens and persons holding dual citizenship from appointment as State Officers.

***c). The Leadership and Integrity Act, 2012***

The primary purpose of the Leadership and Integrity Act (No. 19 of 2012) is to ensure that State officers respect the values, principles and requirements of the Constitution. According to the Act, a State officer is obligated to respect the values, principles and the requirements of the Constitution, including the national values and principles provided for under Article 10 of the Constitution; the rights and fundamental freedoms provided

for under Chapter Four of the Constitution; the responsibilities of leadership provided for under Article 73 of the Constitution; the principles governing the conduct of State officers provided for under Article 75 of the Constitution; the educational, ethical and moral requirements in accordance with Articles 99(1)(b) and 193(1)(b) of the Constitution; in the case of County governments, the objectives of devolution provided for under Article 174 of the Constitution; and in so far as is relevant, the values and principles of Public Service as provided for under Article 232 of the Constitution.

The Committee, in determining the suitability of the nominee, took into consideration the following provisions of the Leadership and Integrity Act, among others:

- i) Section 8 which provides that a public office is an office of public trust and shall be exercised in the best interests of the people of Kenya;
- ii) Section 10 which requires public officers to carry out duties in an efficient and honest manner; transparency; accurate records and documentation; report truthfully on all matters;
- iii) Section 11 which requires public officers to carry out their duties with utmost professionalism to build public confidence and to exercise courtesy, respect, non-discrimination and high standards of performance;
- iv) Section 12 which provides for financial integrity: officers should not enrich oneself or another person;
- v) Section 14 which provides for the receipt of gifts or benefits; state officers are required to declare gifts of any value to the employer;
- vi) Section 15 which provides that public officers should not use their office wrongfully or unlawfully to influence the acquisition of property;
- vii) Section 16 which requires state officers to declare conflict of interest in the course of discharge of their duties;
- viii) Section 23 calls on public officers to exercise political neutrality;
- ix) Section 24 calls public officers to exercise impartiality in the performance of duties;
- x) Section 26 requires public officers not to engage in any other gainful employment; Provided for in Article 77 of the Constitution in case of State officers; and
- xi) Section 32 requires public officers to conduct their private affairs in a manner that maintains public confidence in the integrity of the office.

***d). Article 232 of the Constitution on Values and Principles of Public Service***

Article 232 of the Constitution provides for the values and principles of public service which include high standards of professional ethics; efficient, effective and economic use of resources; responsive, prompt, effective, impartial and equitable provision of services; involvement of the people in the process of policy making; accountability for administrative acts; transparency and provision to the public of timely, accurate information; fair competition and merit as the basis of appointments and promotions; representation of Kenya's diverse communities; and affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service of men and women; the members of all ethnic groups; and persons with disabilities.

***e). Article 10(2) of the Constitution on national values and principles of governance***

Article 10(2) of the Constitution provides for the national values and principles of governance which include patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people; human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized; good governance, integrity, transparency and accountability; and sustainable development.

***f). The Public Service (Values and Principles) Act, 2015***

The Public Service (Values and Principles) Act (No. 1A of 2015) gives effect to Article 232 of the Constitution of Kenya. The Committee took into considerations the provisions of the Act and in particular:

- i) Section 5 which provides that every public officer shall maintain high standards of professional ethics;
- ii) Section 6 which provides that a public officer shall use public resources in an efficient, effective and economic manner;
- iii) Section 7 which provides that the public service shall ensure that public services are provided promptly, effectively, impartially and equitably;
- iv) Section 8 which prohibits a public officer from giving information that the public officer knows or ought to know to be inaccurate; or unduly delays the provision of any information where required to provide that information;
- v) Section 9 which provides that every public officer shall be accountable for his or her administrative acts;
- vi) Section 10 which provides that the public service, a public institution or an authorized officer shall ensure that public officers are appointed and promoted on basis of fair competition and merit.

***g). The Public Officer Ethics Act, 2003***

The Public Officer Ethics Act, 2003 provides for obligations to be carried out by a public officer. These include professionalism, carrying out duties in accordance with the law, prohibition from unjust enrichment, avoiding conflict of interest, not using office as an avenue for soliciting or collecting *harambees*; not acting for foreigners; care of property; political neutrality, prohibition of nepotism or favouritism, giving impartial advice, conducting private affairs in a way that maintains public confidence, bar from sexual harassment, submission of declaration of income, assets and liabilities once every two years, among other worthy provisions.

The Committee considered the provisions of the Public Officer Ethics Act, 2003 during its approval process.

***3.2 Message from H.E the President***

H. E the President on Wednesday, 14<sup>th</sup> March, 2018 communicated the name of the nominees for the position of Principal Secretary for Mining to the Speaker for approval by the National Assembly pursuant to Article 155 (3) (b). The Speaker in his communication from the Chair issued on Thursday, 15<sup>th</sup> March, 2018 and pursuant to Standing Order No. 42 referred the name of the nominee to the Departmental Committee on Environment and Natural Resources to conduct approval hearings and report within 14 days.

***3.3 Notification to the nominees and Clearance requirements***

The Clerk of the National Assembly vide a letter Reference Number **REF.NA/DC/2018(02)** dated 16<sup>th</sup> March, 2018 (Attached as Annex 2) wrote to the nominee informing him of his nomination by H.E The President and requested him to appear for approval hearing by the Departmental Committee on Environment and Natural Resources on Monday, 26<sup>th</sup> March, 2018 in Committee Room 7, Main Parliament Buildings at 9:30 am. The Clerk further requested the nominee to bring with him originals of his National Identity Card, academic and professional certificates, any other documents and testimonials. Additionally, he was asked to bring letters/certificates of clearance from the Kenya Revenue Authority (KRA), the Higher Education Loans Board (HELB), Ethics and Anti- Corruption Commission (EACC) and the Directorate of Criminal Investigations (DCI).

The Clerk, through a letter **Reference Number NA/DCS/DC/2018(02)** wrote to the Kenya Revenue Authority (KRA), the Higher Education Loans Board (HELB), Ethics and Anti - Corruption Commission (EACC), Directorate of Criminal Investigations (DCI), the Registrar of Political Parties (RPP) requesting for tax, loans, integrity and criminal record status of the nominee and affiliation to any political party as an official.

The institutions wrote back to the National Assembly and cleared the nominee (the 5 letters are attached as annex 3).

### ***3.3 Request for Memoranda and Notification to the public***

Section 6(9) of the Public Appointments (Parliamentary Approval) Act No. 33 of 2011, provides that “any person may, prior to the approval hearing, and by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated”.

The Clerk of the National Assembly on **Friday, 16<sup>th</sup> March, 2018** placed a notification in the print media informing the general public of the intention of the Committee to conduct approval hearings, as provided for by Article 118 (1) (a) (b) and (2) of the Constitution and Section 6(4) of the Public Appointments (Parliamentary Approval) Act, (No.33 of 2011), which allow public participation in Committee proceedings. The notification gave provision for the submission of memoranda, on the suitability or otherwise of the nominee, by **Friday, 23<sup>rd</sup> March, 2018, at 5.00 pm (annex 4)**.

### ***3.5 Submission of Memoranda***

At the close of the business day **Friday, 23<sup>rd</sup> March, 2018**, the Office of the Clerk had not received any memoranda on the nominee. The Committee therefore proceeded to conduct the approval hearing of the said nominee.

## **4.0 APPROVAL HEARINGS**

The Committee conducted approval hearings for the nominee to the positions of Principal Secretary for Mining on **Monday, 26<sup>th</sup> March, 2018**. In conducting the vetting exercise, the Committee was guided by, among other documents, the Constitution, the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011) and the Standing Orders.

The Committee examined the nominee using the guidelines provided for in the Public Appointments (Parliamentary Approval) Act No. 33 of 2011. The Committee also considered the following in vetting the nominee:

- a. Academic qualifications
- b. Employment record and work experience
- c. Professional association
- d. Public office, political activities and affiliations
- e. Potential conflict of interest
- f. Suitability to the position
- g. Tax compliance
- h. Vision and leadership
- i. Integrity
- j. Expectations and Key priorities

#### **4.1 Approval Hearing of Mr. John Morangi Omenge, Principal Secretary Nominee for Mining.**

Mr. John Morangi Omenge, appeared before the Committee for approval hearing on **Monday, 26<sup>th</sup> March, 2018**. He was orally interviewed by the Committee and responded to questions during the hearing as follows: -

##### **4.1.1 Personal Background**

Mr. John Morangi Omenge, is a Kenyan citizen of Identity Card Number 0300901 and was born in Kisii County On 20<sup>th</sup> October, 1961. He is a married man.

##### **4.1.2 Educational Background**

He holds a Masters in Science from the Leicester University in the United Kingdom, a Bachelor of Science Degree, from Poona University in India and attended Cardinal Otunga High School for the Kenya Advanced Certificate of Education and the East African Certificate in Education, and St. Patrick's Mosoch Primary School for his basic education.

##### **4.1.3 Professional Experience & Affiliations**

Mr. John Morangi Omenge has the following professional affiliations:

- i) Fellow of the Geological Society of Kenya (2014).
- ii) Registered Geologist by the Geologists Registration Board of Kenya (1998).
- iii) Professional Member of the Geological Society of Kenya (1992).
- iv) Member of the Geological Society of Kenya(1986).

##### **4.1.4 Work Experience**

Mr. John Morangi Omenge has a wealth of experience especially in Public Service. He has worked in the following positions:

1. 26<sup>th</sup> July 2017 – to date: Secretary, Geo-Exploration/Head of Geo-Exploration Directorate, State Department of Energy.
2. 2<sup>nd</sup> September, 2008 - 25<sup>th</sup> July, 2017: Chief Geologist, Ministry of Energy and Petroleum.
3. 11<sup>th</sup> November, 1984 – 31<sup>st</sup> August, 2008: Assistant Geologist, Ministry of Environment and Mineral Resources.
4. He has held various directorship positions:
  - a) 2015 – to date **Director, Kenya Nuclear Electricity Board (KNEB)**, as Alternate to Principal Secretary, Ministry of Energy
  - b) October, 2008 – 2014: **Director, Kenya Electricity Generating Company (KenGen)** as Alternate to Permanent/ Principal Secretary, Ministry of Energy.

### 3.1.5 Awards, Distinctions and Others

1. 1990: Awarded Commonwealth Scholarship to study Master of Science Degree in the United Kingdom;
2. 2014: Fellow of the Geological Society of Kenya (FGSK) for distinguished service and contribution to development of geoscience in Kenya.

### 3.1.6 Potential Conflict of interest

On possible conflict of interest through personal or family interests in the Mining sector, he stated that he had no personal interests in the sector and neither did his family.

### 3.1.7 Integrity

The nominee has no integrity issues having been cleared by the Ethics and Anti-Corruption Commission. Equally, no member of the public had raised any issue about him.

### 3.1.8 Other Issues under Consideration

1. **On why he qualified to be the Principal Secretary, State Department of Mining**, he stated that he possessed the necessary skills such as time management, financial management, people management, interpersonal and negotiation skills and was a servant leader with which he hoped to make a difference in the ministry.
2. **On his interest in geology**, he noted that his passion for geology began when he completed his advanced level, however, his principal could not allow him to study geology for his first degree. He awarded subsequently a scholarship to study a masters degree in engineering at Poona University in India, he opted to study geology instead as a result of the passion in the field. He was awarded a Fellowship of the Geological Society for his distinguished service and contribution to the development of geoscience.
3. **On whether the Environment Impact Assessment (EIA) Report was an effective tool of ensuring the safeguarding of environmental rights of the local communities in a mining area in accordance with Article 42 of the Constitution**, he stated that the EIA reports could be effective as a tool if it there was enforcement. He noted that as the mining projects as they are being designed, implemented and at post implementation stage, adhere to environmental laws. He however noted that there was need to ensure that there is stock-taking of the mining activities that begun before the enactment of the Environmental Management and Coordination Act (EMCA) of 1999 to align such projects with the Act.

4. **On his qualifications in financial accounting which is crucial for him as an accounting officer**, he stated that he had attended financial management courses and had previously successfully managed finances in his service, and therefore he had the capability to manage properly.
5. **On the issue of lack of major achievements by the Ministry of Mining in the last five years**, he stated that the ministry transitioned from a department to a fully-fledged ministry that had been experiencing various capacity challenges. There were however achievements that had been realized by the ministry, with the major one being the enactment of the Mining Act, 2016 and the passage of the Mining Policy. He noted that a lot more needed to be done especially in regards to the implementation of the Mining Act. He further noted that there was need to engage with other stakeholders in a bid to diversify the ministry's budgetary resources and the linkage with the government "Big Four Agenda" as a way of creating confidence in the mining sector.
6. **On the issue of exploitation of the artisanal miners by the middle men and big miners**, he stated that this was a major interest by the ministry as there were intentions to ensure that the artisanal miners were empowered through formation of cooperatives to assist them in marketing their extracts. Additionally, the middle men would be denied the dealership license so as to allow the artisanal miners to sell their extracts through the cooperative societies.
7. **On the issue of the security and integrity of the intended geophysical survey for the countrywide natural resources**, he stated that in the past there had been nationwide geophysical survey in small pockets that had been conducted, however, the intended survey was to be carried out to provide and interpret data for resource mapping. He noted that it was of essence to engage stakeholders in the security sector in designing and implementing such a critical survey for the interest of the country. He further noted that in future there is need to build capacity of the staff, institutions, universities, geologists bodies through tailor-made programs for home grown expertise for such critical exercise.
8. **On the issue of 10 different cases in the International Centre for Settlement of Investments in Dubai by global mining firms for revocation of their exploration permits**, he stated that should revocation be necessary, it should be done within the law and with advice from the State Law office to avoid litigation costs. In addition, there is need to deploy State Counsels in the ministries to be offering legal advice in major decision making. Further, there is need for thorough monitoring and evaluation of contracts with the M&E team comprising an all rounded personnel for proper and well advised evaluation.
9. **On what needed to be done with coal deposits**, he stated that although coal was a source of energy that has impact on environment, the same has been used as a source of energy in industries in Germany, United States of America, South Africa and its negative environmental effects have been properly managed



through technology. The same could be replicated for the country with the local coal plants in Lamu for source of cheap energy.

10. **On conflict of role of the Chief Administrative Secretary and the Principal Secretary**, he stated that there was no conflict for the two offices as the Chief Administrative Secretary offered complementary role to the Cabinet Secretary in the administrative role whereas the Principal Secretary is the accounting officer.
11. **On whether he harboured political interests**, he stated that he was a career civil servant and that he did not have any political interests.
12. **On the challenges of ensuring there was effective monitoring, compliance and enforcement of mining and environmental laws in the mining sector** he stated that: Although the Mining Act, 2016 was a progressive law, it had provisions that hinder continuity in the sector and that were not in tandem with practices elsewhere in the civil service. For instance the provision in section 18 (4) of the act which provides that: “A Director shall hold office for a term of three years, which may be renewed once.” Directors elsewhere in the civil service are permanent employees. He therefore pledged that if approved for the position, he will engage the Committee to address areas that have challenges in the implementation of the Mining Act, 2016.

## 5.0 COMMITTEE OBSERVATIONS

The Committee having considered the nominee's Curriculum Vitae, other written and oral submissions during the approval hearing exercise, made the following observations that the nominee:

- i. Had satisfied the requirements of chapter six of the Constitution of Kenya on Leadership and Integrity having been cleared by: The Ethics and Anti-Corruption Commission, the Directorate of Criminal Investigations, the Kenya Revenue Authority on Tax Compliance, Higher Education Loans Board (HELB) and the Registrar of Political Parties.
- ii. Has never been charged with a criminal offence in a court of law and has no potential conflict of interest with regard to the position he had been nominated to.
- iii. Has never been dismissed from office for contravention of the provisions of article 75 of the constitution which deals with conduct of State Officers that are adversely mentioned in any investigatory report of Parliament or any commission of inquiry.
- iv. Has the necessary qualifications and extensive experience in the public service as seen from the documentation presented to the Committee.
- v. Has the right attitude and commitment to serve in the position for which he had been nominated as observed from the way he responded to the Members' questions on mining related issues during the approval hearing.
- vi. Does not hold office in any political party hence satisfies the provisions of Article 77(2) of the Constitution;
- vii. Exhibited impressive knowledge and understanding of issues relating to the docket he had been nominated for appointment.

## 6.0 COMMITTEE RECOMMENDATION

**Having considered the suitability, capacity and integrity of the nominee, and pursuant to Article 155(3) of the Constitution and Section 8 (2) of the Schedule to the Public Appointments (Parliamentary Approval) Act No. 33 of 2011 and Standing Order 216 (5) (f) of the National Assembly, the Committee recommends that the National Assembly approves the nomination of Mr. John Morangi Omenge. for appointment by H.E. the President to the position of Principal Secretary for Mining.**

# ANNEXTURES 1

## MINUTES



**MINUTES OF THE 31<sup>ST</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES HELD ON TUESDAY 27<sup>TH</sup> MARCH, 2018 AT 11.00 AM IN CPA ROOM, MAIN PARLIAMENT BUILDINGS.**

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**PRESENT**

- |                                               |                         |
|-----------------------------------------------|-------------------------|
| 1. <b>The Hon. Kareke Mbiuki, M.P.</b>        | <b>Chairperson</b>      |
| 2. <b>The Hon. Sophia Abdi Noor, M.P.</b>     | <b>Vice Chairperson</b> |
| 3. The Hon. Francis Chachu Ganya, M.P.        |                         |
| 4. The Hon. Charles Ong'ondo Were, M.P.       |                         |
| 5. The Hon. Said Hiribae, M.P.                |                         |
| 6. The Hon. Peter Kimari Kihara, M.P.         |                         |
| 7. The Hon. Beatrice Cherono Kones, M.P.      |                         |
| 8. The Hon. Charity Kathambi Chepkwony, M.P.  |                         |
| 9. The Hon. Hilary Kiplang'at Kosgei, M.P.    |                         |
| 10. The Hon. (Eng.) Paul Musyimi Nzengu, M.P. |                         |
| 11. The Hon. Rehema Hassan, M.P.              |                         |

**APOLOGIES**

1. The Hon. Benjamin Jomo Washiali, M.P.
2. The Hon. Nasri Sahal Ibrahim, M.P.
3. The Hon. Ali Wario Guyo, M.P.
4. The Hon. Amin Deddy Mohamed Ali, M.P.
5. The Hon. Rozaah Buyu. M.P.
6. The Hon. David Kangogo Bowen, M.P.
7. The Hon. Benjamin Dalu Tayari, MP
8. The Hon. Hassan Oda Hulufu, M.P.

**THE NATIONAL ASSEMBLY**

- |                        |   |                         |
|------------------------|---|-------------------------|
| 1.Ms. Esther Nginyo    | - | Third Clerk Assistant   |
| 2.Mr. Dennis M. Ogechi | - | Third Clerk Assistant   |
| 3.Ms. Mercy Wanyonyi   | - | Legal Counsel II        |
| 4.Mr. Simon Muinde     | - | Audio Recording Officer |
| 5.Mr. Stanley Lagat    | - | Serjeant-At-Arms        |
| 6.Mr. Joe Okongo       | - | Media Relations Officer |

**AGENDA**

- i) Prayers
- ii) Confirmation of Minutes
- iii) Matters Arising
- iv) **Consideration and adoption of the Report on the Vetting of the Principal Secretary nominee for the State Department of Mining, Mr. John M. Omenge.**
- v) Any Other Business
- vi) Date of the next Sitting

**MIN.NO. DC/ENR/149/2018:**

**- PRELIMINARIES**

The meeting was called to order at 11.20 am after which prayers were said. The Chairperson then stated that the main agenda of the meeting was Consideration and adoption of the Report on the Vetting of the Principal Secretary nominee for the State Department of Mining, Mr. John Morangi Omenge. The Members adopted the agenda of the meeting.

**MIN.NO.DC/ENR/150/2018:**

**- CONFIRMATION OF MINUTES**

Minutes of the 29<sup>th</sup> Sitting held on Friday 23<sup>rd</sup> March, 2018 at 10.00 a.m. were confirmed as a true record of deliberations after being proposed by Hon. Charity Kathambi Chepkwony, M.P. and seconded by Hon. Charles Ongóndo Were , MP.

Minutes of the 30<sup>th</sup> Sitting held on Monday 26<sup>th</sup> March, 2018 at 9.30 a.m. were confirmed as a true record of deliberations after being proposed by Hon. Chachu Ganya, M.P and seconded by Hon. Peter Kihara, M.P.

**MIN.NO. DC/ENR/151/2018:**

**- MATTERS ARISING**

It was noted that the vetting exercise for the Principal Secretary nominee for the State Department of Mining took place without a hitch on Monday, 26<sup>th</sup> March, 2018.

**MIN.NO. DC/ENR/152/2018:-**

**CONSIDERATION AND ADOPTION OF THE  
VETTING REPORT ON THE PRINCIPAL  
SECRETARY, STATE DEPARTMENT OF  
MINING, MR. JOHN M. OMENGE**

The Report on the Vetting of the Principal Secretary nominee for the State Department of Mining, Mr. John Morangi Omenge was considered and adopted after being proposed and seconded by Hon.Peter Kihara, MP and Hon. Chachu Ganya, MP respectively.

The Report was adopted with the following observations that the nominee:

- i. Had satisfied the requirements of chapter six of the Constitution of Kenya on Leadership and Integrity having been cleared by: The Ethics and Anti-Corruption Commission, the Directorate of Criminal Investigations, the Kenya Revenue Authority on Tax Compliance, Higher Educations Loans Board (HELB) and the Registrar of Political Parties.
- ii. Has never been charged with a criminal offence in a court of law and has no potential conflict of interest with regard to the position he had been nominated to.

- iii. Has never been dismissed from office for contravention of the provisions of article 75 of the constitution which deals with conduct of State Officers that are adversely mentioned in any investigatory report of Parliament or any commission of inquiry.
- iv. Has the necessary qualifications and extensive experience in the public service as seen from the documentation presented to the Committee.
- v. Has the right attitude and commitment to serve in the position for which he had been nominated as observed from the way he responded to the Members' questions on water related issues during the approval hearing.
- vi. Does not hold office in any political party hence satisfies the provisions of Article 77(2) of the Constitution;
- vii. Exhibited impressive knowledge and understanding of issues relating to the docket he had been nominated for appointment.

Consequently, the recommendation of the Committee was that having considered the suitability, capacity and integrity of the nominee, and pursuant to Article 155(3) of the Constitution and Section 8 (2) of the Schedule to the Public Appointments (Parliamentary Approval) Act No. 33 of 2011 and Standing Order 216 (5) (f) of the National Assembly, the Committee recommends that the National Assembly approves the nomination of Mr. John Morangi Omenge for appointment by H.E. the President to the position of Principal Secretary for Mining.

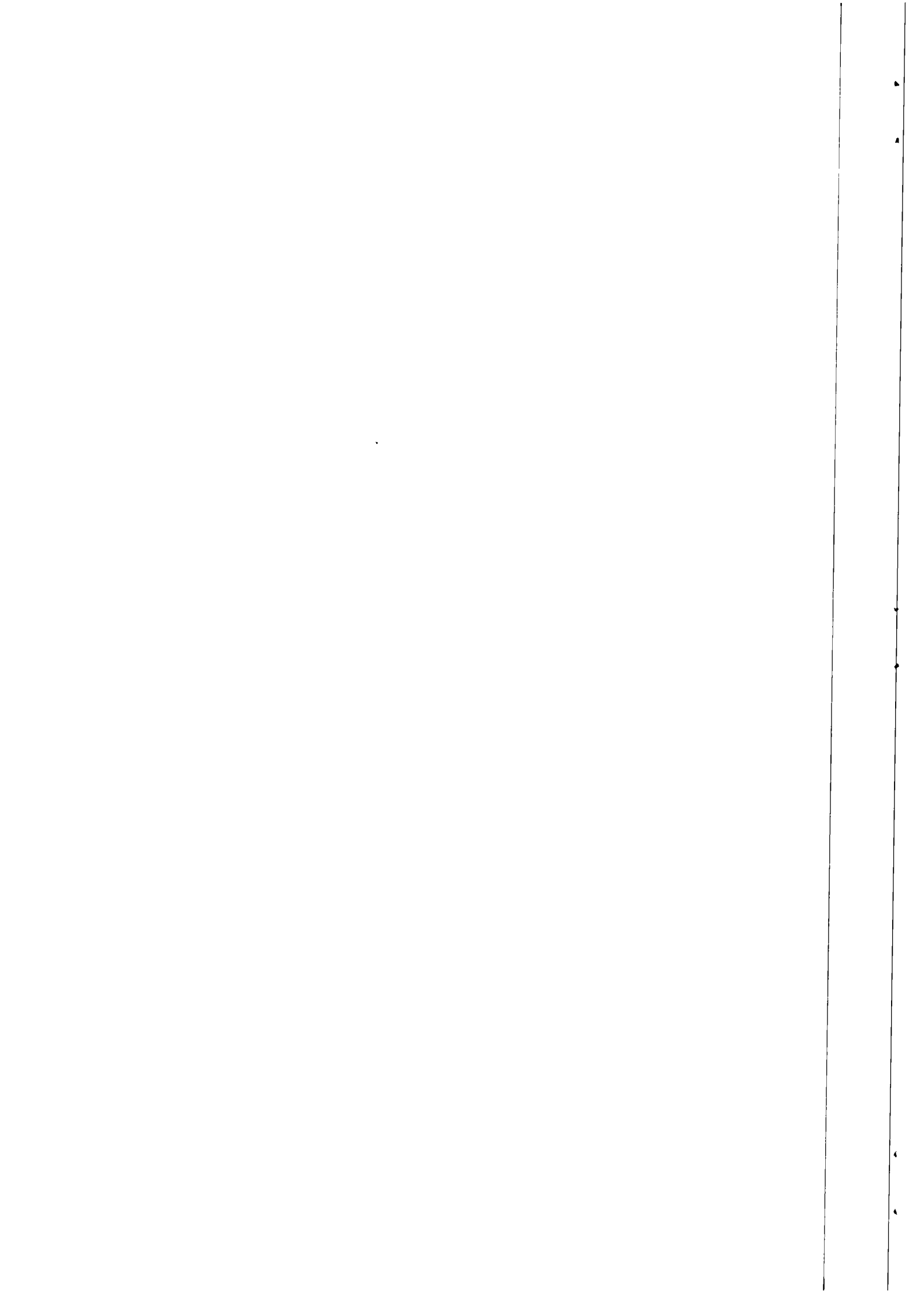
**MIN.NO. DC/ENR/153/2018: - ADJOURNMENT**

There being no other business the meeting was adjourned at 12.10 pm.

**SIGNED:** .....

**THE HON. KAREKE MBIUKI, M.P.**  
**CHAIRPERSON,**  
**DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURALRESOURCES**

**DATE:** .....





**MINUTES OF THE 30<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES HELD ON MONDAY 26<sup>TH</sup> MARCH, 2018 AT 9.30 AM IN ROOM 7, MAIN PARLIAMENT BUILDINGS.**

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**PRESENT**

- |                                         |                  |
|-----------------------------------------|------------------|
| 1. The Hon. Kareke Mbiuki, M.P.         | Chairperson      |
| 2. The Hon. Sophia Abdi Noor, M.P.      | Vice Chairperson |
| 3. The Hon. Francis Chachu Ganya, M.P.  |                  |
| 4. The Hon. Charles Ong'ondo Were, M.P. |                  |
| 5. The Hon. Hassan Oda Hulufu, M.P.     |                  |
| 6. The Hon. Said Hiribae, M.P.          |                  |
| 7. The Hon. Peter Kimari Kihara, M.P.   |                  |

**APOLOGIES**

1. The Hon. Benjamin Jomo Washiali, M.P.
2. The Hon. Hilary Kiplang'at Kosgei, M.P.
3. The Hon. Nasri Sahal Ibrahim, M.P.
4. The Hon. Charity Kathambi Chepkwony, M.P.
5. The Hon. (Eng.) Paul Musyimi Nzengu, M.P.
6. The Hon. Ali Wario Guyo, M.P.
7. The Hon. Beatrice Cherono Kones, M.P.
8. The Hon. Amin Deddy Mohamed Ali, M.P.
9. The Hon. Rozaah Buyu. M.P.
10. The Hon. David Kangogo Bowen, M.P.
11. The Hon. Benjamin Dalu Tayari, MP
12. The Hon. Rehema Hassan, M.P.

**THE NATIONAL ASSEMBLY**

- |                         |   |                         |
|-------------------------|---|-------------------------|
| 1. Ms. Esther Nginyo    | - | Third Clerk Assistant   |
| 2. Mr. Dennis M. Ogechi | - | Third Clerk Assistant   |
| 3. Ms. Mercy Wanyonyi   | - | Legal Counsel II        |
| 4. Mr. Simon Muinde     | - | Audio Recording Officer |
| 5. Mr. Stanley Lagat    | - | Serjeant-At-Arms        |

**AGENDA**

- i) Prayers
- ii) Confirmation of Minutes
- iii) Matters Arising
- iv) Approval Hearing for the Principal Secretary Nominee for the State Department of Mining, Mr. John Morangi Omenge.
- v) Any Other Business
- vi) Date of the next Sitting

MIN.NO. DC/ENR/144/2018:

- PRELIMINARIES

The meeting was called to order at 9.49 am after which prayers were said. The Chairperson then stated that the main agenda of the meeting was conducting an approval hearing for the Principal Secretary nominee for the State Department of Mining, Mr. John Morangi Omenge. The Members adopted the agenda of the meeting. He then asked all those present to introduce themselves.

MIN.NO.DC/ENR/145/2018:

- CONFIRMATION OF MINUTES

Confirmation of minute of the previous sitting was deferred to the next meeting.

MIN.NO. DC/ENR/146/2018:

- APPROVAL HEARING FOR THE  
PRINCIPAL SECRETARY NOMINEE  
FOR THE STATE DEPARTMENT OF  
MINING, MR. JOHN M. OMENGE.

The Principal Secretary Nominee for the State Department of Mining, Mr. John Morangi Omenge appeared before the Committee, took oath, produced his original documents (identification, academic and other testimonials) and responded to members' questions as follows:

1. On his educational background he stated that he holds a Master of Science in Mineral Exploration & Mining Geology, Leicester University, UK and a Bachelor of Science in Geology, Poona University, India.

He had also undertaken various short courses in diverse areas.

2. On his work experience he stated that his current post was that of Secretary, Geo-Exploration, Job Group "T"/Head of Geo-Exploration Directorate, State Department of Energy, Ministry of Energy and Petroleum as from 26<sup>th</sup> July, 2017.

From 2<sup>nd</sup> September, 2008 – 25<sup>th</sup> July, 2017 he held the post of Chief Geologist (Energy), Job Group "S" (Highest Grade in the Scheme Service for Geologists) and Head of Geo-Exploration

From 11<sup>th</sup> November, 1984 – 31<sup>st</sup> August, 2008 he held the post of Geologist rising from the rank of Assistant Geologist, Job group "H", to that of Senior Principal Superintending Geologist, Job Group "R", Ministry Resources, Mines and Geological Department (later the Ministry of Mining).

He had also held various directorships in the public service.

3. On his competencies in the areas of administration,, management, finance, accounting, and strategic planning he stated that:
  - a) He among the first public servants to be involved in performance contracting.
  - b) He had been involved in budgeting ever since he worked at the department of mines and geology.
  - c) He was heading a directorate as a chief geologist where part of his duties was preparation of the directorates' annual budget and overseeing expenditure as the AIE holder.
  - d) He presided over budgetary support to the Kenya Nuclear Electricity Board, KENGEN and the Geothermal Development Corporation (GDC) all in their nascent stages.
  - e) He presided over a growth in the staffing levels (human resource) at the Ministry of Energy. He worked closely with the Public Service Commission and the human resource unit in the ministry.
  - f) He appreciated the human resource challenges bedevilling the mining state department and promised to address them if appointed.
  - g) On leadership he stated that he had led various departments and directorates in government, been a chair of various technical committees and solved problems in Naivasha between communities in relation to geothermal projects in the area. He had equally worked closely and successfully with civil society and other private entities to address issues of concern in his line of work.
  - h) He had also undertaken various short courses in the areas of finance and strategic planning.
4. On if the Environmental Impact Assessment Report was an effective tool for ensuring that rights of locals were safeguarded in accordance with article 42 of the Constitution he stated that:
  - a) Enforcing the requirement for environmental audit was mandatory to safeguard local communities and small scale miners in the country.
  - b) There was need to adhere to all laws regulating environmental matters at the stages of design, implementation and post implementation of all projects in the sector.
5. On the challenges of ensuring there was effective monitoring, compliance and enforcement of mining and environmental laws in the mining sector he stated that: Some provisions of the Mining Act, 2016 had provisions that hinder continuity in the sector and that were not in tandem with practices elsewhere in the civil service. For instance the provision in section 18 (4) of the act which provides that: "A Director shall hold office for a term of three years, which may be renewed once." Directors elsewhere in the civil service are permanent employees.
6. On whether he harboured political interests, he stated that he was a career civil servant and that he did not have any political ambitions.

7. On his qualifications in financial management which was to be a central skill as an accounting officer he stated that he had undertaken financial management courses at the Kenya School of Government and KCA University. He equally had extensive experience as an AIE holder in government.
8. On the exploitation of the potential of the mining sector in the country he stated that having been involved in exploration of minerals; the country had an abundance of mineral resources. The challenges hindering exploitation include the laxity in giving concessions for mineral exploitation, capacity challenges at our institutions, and lack of full operationalization of the entities/ institutions envisaged in the Mining Act, 2016.
9. On conflict of role of the Chief Administrative Secretary and the Principal Secretary, he stated that there was no conflict between the two offices as the Chief Administrative Secretary offered complementary role to the Cabinet Secretary in the administrative role whereas the Principal Secretary is the accounting officer.
10. On what needed to be done with coal deposits, he stated that although coal was a source of energy that has impact on environment, the same has been used as a source of energy in industries in Germany, United States of America, South Africa and its negative environmental effects have been properly managed through technology. The same could be replicated for the country with the local coal plants in Lamu for source of cheap energy.
11. On the issue of exploitation of small scale miners by the middle men and big miners, he stated that this was a major interest by the ministry as there were intentions to ensure that the artisanal miners were empowered through formation of cooperatives to assist them in marketing their extracts. Additionally, the middle men would be denied the dealership license so as to allow the small scale miners to sell their extracts through the cooperative.
12. On the issue of the security and integrity of the intended geophysical survey for the countrywide natural resources, he stated that in the past there had been nationwide geophysical survey in small pockets that had been conducted; however, the intended survey was to be carried out to provide and interpret data for resource mapping. He noted that it was of essence to engage security stakeholders in designing and implementing such a critical survey for the interest of the country. He further noted that in future there is need to build capacity of the staff, institutions, universities, geologists' bodies through tailor-made programs for home grown expertise for such critical exercise.
13. On the issue of 10 different cases in the International Centre for Settlement of Investments in Dubai by global mining firms for revocation of their exploration permits, he stated that should revocation be necessary, it should be done within the law and with advice from the State Law office to avoid litigation costs. In addition, there is need to deploy state counsels in the ministries to be offering legal advice in major decision making. Further, there is need for thorough monitoring and evaluation of contracts with the M&E team comprising an all rounded personnel for proper and well advised evaluation

14. On any help he may need from the Committee if was appointed Principal Secretary he stated that budgetary enhancement for the sector and shaping policy direction for the sector would be critical areas of engagement.

**MIN.NO. DC/ENR/147/2018: - MEMBERS' OBSERVATIONS**

Members observed that:

1. The nominee exhibited extensive knowledge and understanding of issues relating to the mining sector and was a perfect fit for the position he had been nominated to for appointment.
2. Had satisfied the requirements of chapter six of the Constitution of Kenya on Leadership and Integrity having been cleared by: The Ethics and Anti-Corruption Commission, the Directorate of Criminal Investigations, the Kenya Revenue Authority on Tax Compliance, Higher Educations Loans Board (HELB) and the Registrar of Political Parties.

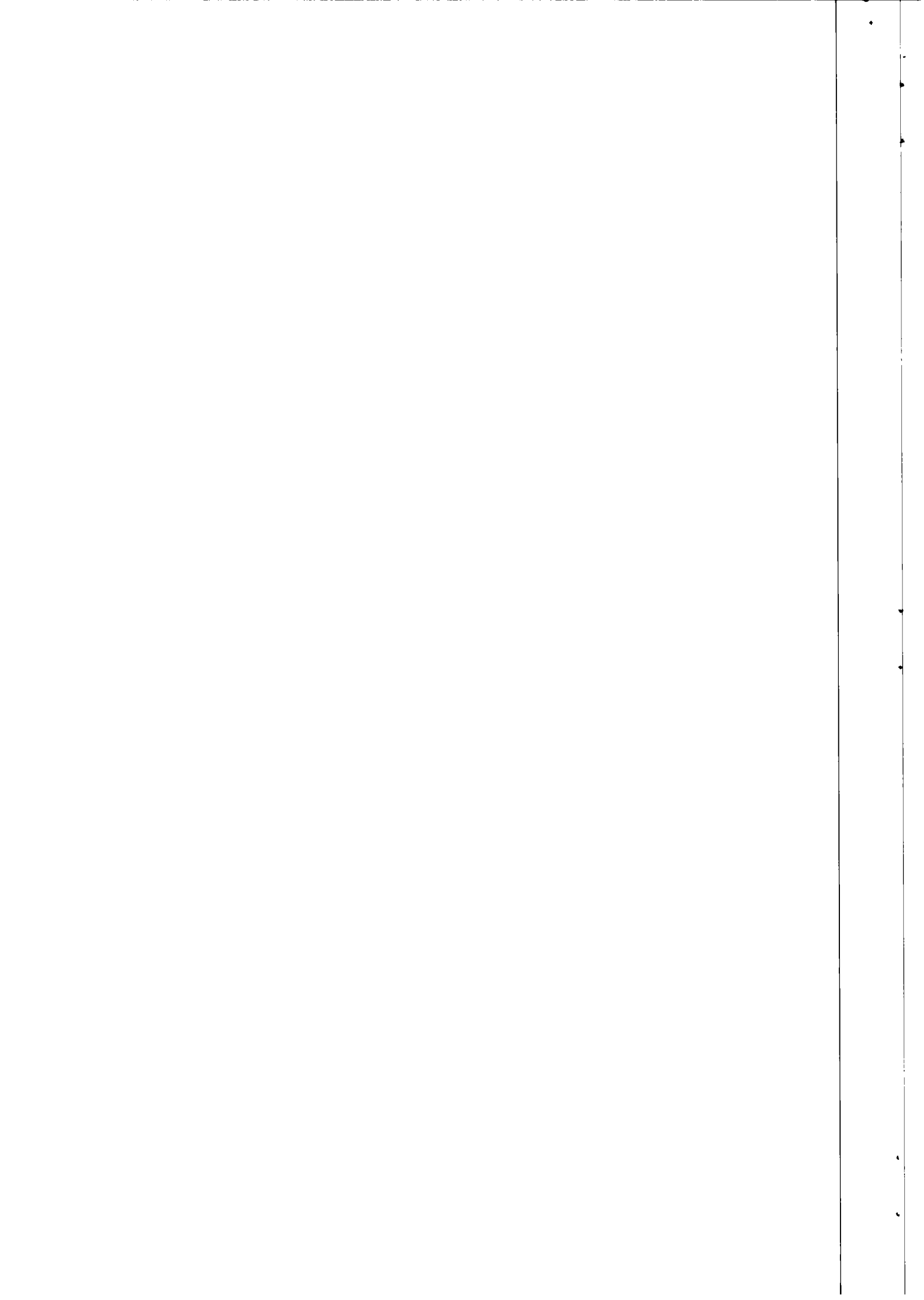
**MIN.NO. DC/ENR/148/2018: - ADJOURNMENT**

There being no other business the meeting was adjourned at 12.10 pm.

SIGNED: ..... 

**THE HON. KAREKE MBIUKI, M.P.  
CHAIRPERSON,  
DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES**

DATE: ..... 27/3/2018 .....



MINUTES OF THE 29<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES HELD ON FRIDAY, 23<sup>RD</sup> MARCH, 2018 AT 10.00 AM IN THE CPA ROOM, MAIN PARLIAMENT BUILDINGS.

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PRESENT

1. The Hon. Kareke Mbiuki, M.P. Chairperson
2. The Hon. Sophia Abdi Noor, M.P. Vice Chairperson
3. The Hon. Charity Kathambi Chepkwony, M.P.
4. The Hon. Charles Ong'ondo Were, M.P.
5. The Hon. Hassan Oda Hulufu, M.P.
6. The Hon. Said Hiribae, M.P.
7. The Hon. Francis Chachu Ganya, M.P.
8. The Hon. Ali Wario Guyo, M.P.
9. The Hon. Beatrice Cherono Kones, M.P.

APOLOGIES

1. The Hon. Benjamin Jomo Washiali, M.P.
2. The Hon. Hilary Kiplang'at Kosgei, M.P.
3. The Hon. Nasri Sahal Ibrahim, M.P.
4. The Hon. (Eng.) Paul Musyimi Nzengu, M.P.
5. The Hon. Peter Kimari Kihara, M.P.
6. The Hon. Amin Deddy Mohamed Ali, M.P.
7. The Hon. Rozaah Buyu. M.P.
8. The Hon. David Kangogo Bowen, M.P.
9. The Hon. Benjamin Dalu Tayari, MP
10. The Hon. Rehema Hassan, M.P.

THE NATIONAL ASSEMBLY

- |                         |   |                         |
|-------------------------|---|-------------------------|
| 1. Ms. Esther Nginyo    | - | Third Clerk Assistant   |
| 2. Mr. Dennis M. Ogechi | - | Third Clerk Assistant   |
| 3. Ms. Mercy Wanyonyi   | - | Legal Counsel II        |
| 4. Mr. Simon Muinde     | - | Audio Recording Officer |

AGENDA

- i) Prayers
- ii) Confirmation of Minutes
- iii) Matters Arising
- iv) **Pre-Vetting Briefing (Principal Secretary Nominee for the State Department of Mining – Mr. John Morangi Omenge).**
- v) Any Other Business
- vi) Date of the next Sitting

**MIN.NO. DC/ENR/139/2018: - PRELIMINARIES**

The meeting was called to order at 10.21 am after which prayers were said. The Chairperson then stated that the main agenda of the meeting was receiving a Pre-Vetting Briefing for Principal Secretary Nominee for the State Department of Mining – Mr. John Morangi Omenge

The Members adopted the agenda of the meeting.

**MIN.NO.DC/ENR/140/2018: - CONFIRMATION OF MINUTES**

Confirmation of minute of the previous sitting was deferred to the next meeting.

**MIN.NO. DC/ENR/141/2018: PRE-VETTING BRIEFING (PRINCIPAL SECRETARY NOMINEE FOR THE STATE DEPARTMENT OF MINING – MR. JOHN MORANGI OMENGE).**

The Legal Counsel briefed the Committee that:

1. Pursuant to the provisions of Article 132(2) and 155(3)(b) of the Constitution and Standing Order 45 of the National Assembly Standing Orders' H.E. the President has nominated and forwarded the name of Mr. John Morangi Omenge (nominee) to Parliament for vetting for the position of Principal Secretary, State Department of Mining, Ministry of Petroleum and Mining. The notification was accompanied by the nominee's Curriculum Vitae in accordance with section 5 of the Act.
2. In accordance with the provisions of Article 259(5)(a) of the Constitution as read together with the sections 8 of the Public Appointments (Parliamentary Approval) Act, the Speaker directed the Departmental Committee on Environment and Natural Resources to notify the nominee and the public that it will conduct an approval hearing after the seven day notification and table a report before the House on or before 28th March, 2018.
3. In undertaking the vetting exercise, the Committee must observe the provisions of —
  - i) The Constitution of Kenya, 2010
  - ii) The Public Appointments (Parliamentary Approval) Act (No. 33 of 2011)
  - iii) The National Assembly Standing Orders
4. Section 6 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011) (PAPAA) regulates the conduct of an approval hearing.
5. Pursuant to the provisions of section 6 of the Public Appointments (Parliamentary Approval) Act, prior to the approval hearing the Committee must ensure that---
  - a) there is an advertisement inviting members of the public to submit memoranda on the suitability of a candidate to hold the office of Principal Secretary, State Department of Mining in the form of a written statement on oath.
  - b) the candidate has been notified by the Clerk of the time and place for the holding of an approval hearing;



- c) the public has been notified by the Clerk of the time and place for the holding of an approval hearing at least seven days prior to the hearing;
  - d) the candidate has submitted a questionnaire completed according to the criteria outlined under the Schedule to the Public Appointments (Parliamentary Approval) Act which must include among others information touching on the nominee's —
    - academic qualifications
    - employment record and work experience
    - membership to professional associations
    - public office, political activities and affiliations
    - potential conflicts of interest
    - suitability for the position
    - tax compliance status
    - integrity status
  - e) the Committee has written to and received responses from—
    - the Ethics and Anti-Corruption Commission
    - the Criminal Investigation Department
    - the Kenya Revenue Authority (KRA)
    - the Higher Education Loans Board (HELB)
    - the Office of the Registrar Political Parties
6. Pursuant to the provisions of section 6 of the Public Appointments (Parliamentary Approval) Act; during the approval hearing, the Committee must ensure that—
- a) the proceedings are open and transparent unless there exceptional or justifiable circumstances to hold proceedings in camera
  - b) the approval hearing focuses on the candidate's;
    - academic credentials,
    - professional training and experience,
    - personal integrity and
    - background.
7. Pursuant to the provisions of sections 7 of the Public Appointments (Parliamentary Approval) Act; after the approval hearing the Committee must consider the following issues in relation to the nomination—
- a) the procedure used to arrive at the nominee.
  - b) any constitutional or statutory requirements relating to the office in question.
8. The Committee must be satisfied that the provisions of Article 155(3) of the Constitution were adhered to and that the President has nominated a person for appointment as Principal Secretary from among persons recommended by the Public Service Commission.
9. The Committee must take into consideration the provisions of Article 73(2)(a) of the Constitution that enumerate that the guiding principles of leadership and integrity include selection on the basis of personal integrity, competence and suitability;

10. The Committee must also take into consideration the provisions of Article 155 (1) of the Constitution that establishes the office of Principal Secretary as an office in the public service. The Principal Secretary shall be in charge of administration of a State department.
11. The Committee must take into consideration the provisions of section 7 (c) of the Act with respect to the suitability of the nominee for the appointment proposed having regard to whether the nominee's abilities, experience and qualities meet the needs of the body to which nomination is being made.
12. It is important to note that the Committee is empowered to call for evidence pursuant to Article 125 of the Constitution, section 12 of the Act and Standing Order 191. In this regard, the Committee may summon any witnesses it so wishes in order to obtain all relevant information that will enable it discharge its mandate effectively.
13. Section 8 of PAPAA provides that the Committee shall consider a nomination and table its report in the House for debate and decision within 14 days from the date on which the notification of nomination was given. Section 9 of the Act stipulates that where the House does not meet the prescribed timelines, the nominee shall be deemed to have been approved.
14. At the conclusion of an approval hearing, the Committee shall prepare its report on the suitability of the candidate to be appointed to the office to which the candidate has been nominated, and shall include in the report, such recommendations as the Committee may consider necessary.

**MIN.NO. DC/ENR/142/2018: - RESOLUTION**

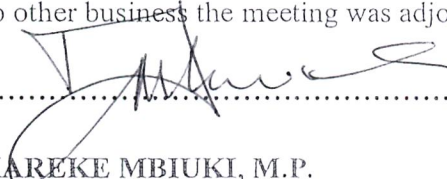
Members resolved to raise the following questions/issues during the approval hearing of the Principal Secretary Nominee for the State Department of Mining – Mr. John Morangi Omenge:

- 1) The nominee's education background, work experience and current engagement.
- 2) Being an accomplished geologist with many years of experience, had his experience prepared him for the position of the Principal Secretary, State Department of Mining?
- 3) Is the Environmental Impact Assessment Report an effective tool of ensuring that the environmental rights of local communities in a mining area are safeguarded in accordance to Article 42 of the Constitution?
- 4) What are the challenges with regards to ensuring that there is effective monitoring, compliance and enforcement of mining and environmental laws in the mining sector? How can the same be resolved?
- 5) Whether public participation as required by the Constitution has been effective in the mining sector. What were the challenges on the same with regards to the coal mining project in Mui Basin, Kitui County?

- 6) Is sustainable mineral development achievable in Kenya so as to ensure that not only the mineral industry benefits but also the locals and the environment is preserved? What are the challenges with regards to achieving the same?
- 7) What are the challenges with regards to access by the public of the geoscience information as required by the section 29 of the Mining Act? How can the same be resolved?
- 8) Global mining firms have taken about 10 different cases to the attention of the International Centre for Settlement of Investments Disputes (ICSID) based in Dubai regarding the revocation of their exploration permits. The firms were demanding Sh334 billion from the Kenyan government as compensation for cancelling their licences. What in his view needs to be done in licensing the mining firms so as avert huge losses to the country as a result of such disputes?
- 9) The Ministry of Mining is set to undertake the first geophysical survey of our natural resources. This exercise, which will be carried out by Geological Exploration Technology Institute (GETI) from China is a step in the right direction. What would be his role, if appointed as the Principal Secretary, State Department of Mining, in ensuring the security and the integrity of process for the benefit of Kenyans?
- 10) In the last 5 years, no major achievements have been realized in the Ministry of Mining, what was his vision for the Mining Sector so as to ensure that its full potential is realized?
- 11) Which are the major challenges in the mining sector and how did he intend to address them if appointed as the Principal Secretary?

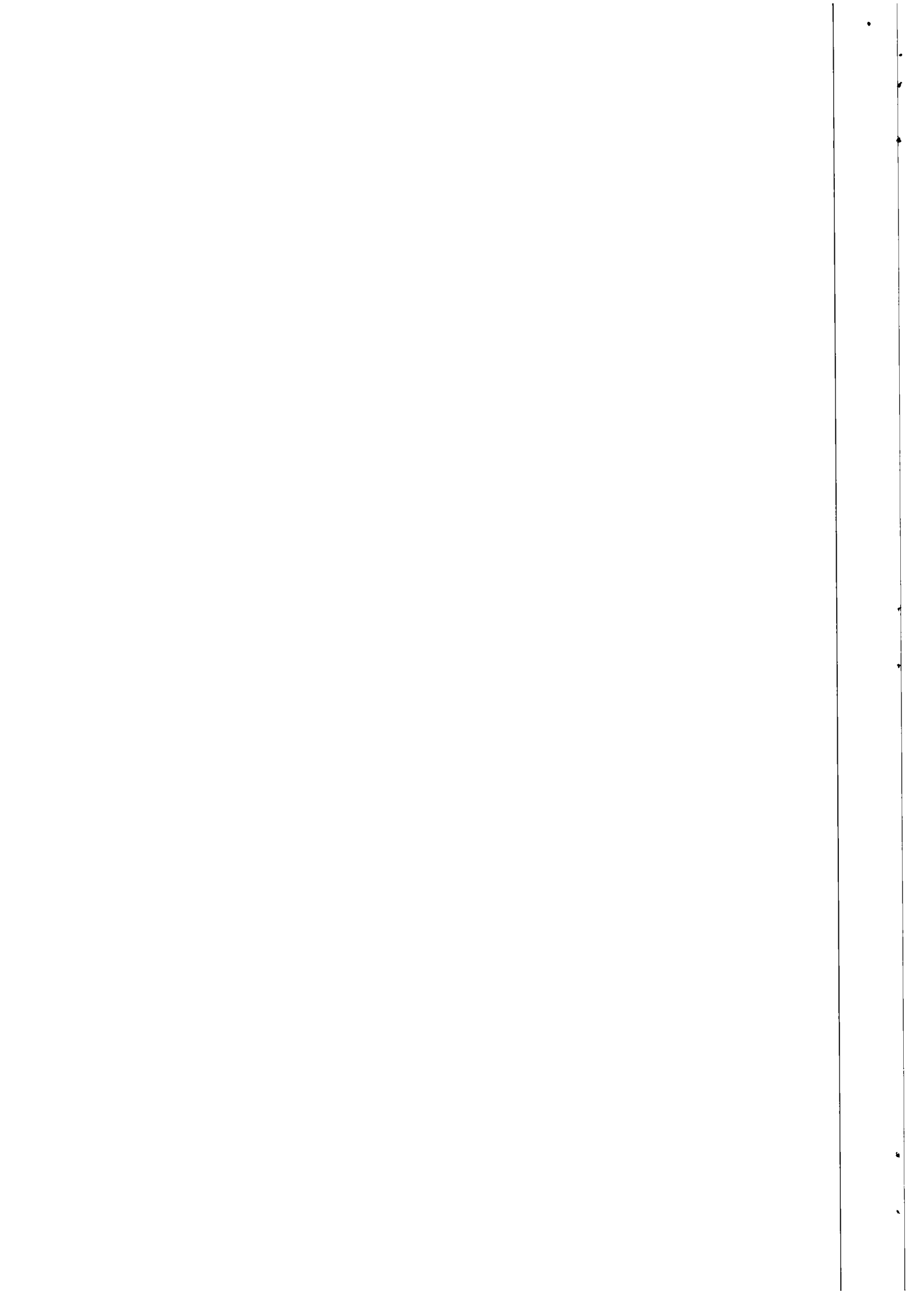
MIN.NO. DC/ENR/143/2018: - ADJOURNMENT

There being no other business the meeting was adjourned at 11.14 pm.

SIGNED: .....  .....

THE HON. KAREKE MBIUKI, M.P.  
CHAIRPERSON,  
DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

DATE: ..... 27/3/2018 .....

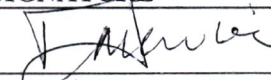
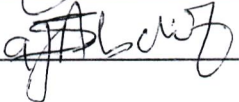
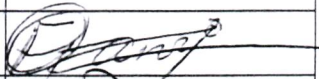




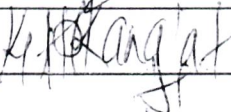
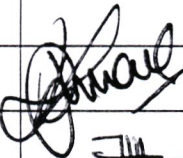
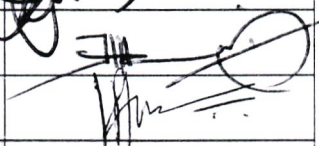


THE NATIONAL ASSEMBLY

DC-ENR: DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

REPORT ON THE VETTING OF MR. JOHN MORANGI OMENGE, A NOMINEE FOR APPOINTMENT TO THE POSITIONS OF PRINCIPAL SECRETARY FOR THE STATE DEPARTMENT OF MINING.

REPORT ADOPTION LIST

	NAME	SIGNATURE
1.	The Hon. Kareke Mbiuki, M.P. - Chairperson	
2.	The Hon. Sophia Abdi Noor, M.P. – Vice Chairperson	
3.	The Hon. David Kangogo Bowen, M.P.	
4.	The Hon. Benjamin Jomo Washiali, M.P.	
5.	The Hon. Francis Chachu Ganya, M.P.	
6.	The Hon. Beatrice Cheron Kones, M.P.	
7.	The Hon. Benjamin Dalu Tayari, MP.	
8.	The Hon. Amin Deddy Mohamed Ali, M.P.	
9.	The Hon. Charity Kathambi Chepkwony, M.P	
10.	The Hon. Charles Ong'ondo Were, M.P.	
11.	The Hon. Hassan Oda Hulofo, M.P.	
12.	The Hon. Hilary Kiplang'at Kosgei, M.P.	
13.	The Hon. Ali Wario Guyo, M.P.	
14.	The Hon. Nasri Sahal Ibrahim, M.P.	
15.	The Hon. Peter Kimari Kihara, M.P	
16.	The Hon. (Eng.) Paul Musyimi Nzengu, M.P.	
17.	The Hon. Rehema Hassan, M.P.	
18.	The Hon. Rozaah Buyu. M.P.	
19.	The Hon. Said Hiribae, M.P.	



ANNEXTURES 2

LETTER FROM THE OFFICE OF THE CLERK  
INFORMING THE NOMINEE OF THE  
APPROVAL HEARING





**REPUBLIC OF KENYA**



**Telegraphic Address**

'Bunge', Nairobi

Tel. +254-020-2221291

Fax: +254-020-22243694

E-mail: [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)

When replying please quote **THE NATIONAL ASSEMBLY**

Clerk's Chambers  
National Assembly  
Parliament Buildings  
P.O. Box 41842 -00100  
NAIROBI,

Ref.NA/DCS/DC /2018 (02)

16<sup>th</sup> March, 2018

**Mr. John Morangi Omenge**

P.O. Box 30582-00100,

**NAIROBI**

Tel. 0733500210

Email: [nmyahaji@gmail.com](mailto:nmyahaji@gmail.com)

Dear

**RE: INVITATION FOR VETTING BY THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES**

---

Following your nomination by H.E. the President for appointment to the position of Principal Secretary, the **Departmental Committee on Environment and Natural Resources** of the National Assembly hereby invites you for vetting pursuant to section 6(3) of the Public Appointments (Parliamentary Approval) Act, 2011. The approval hearing will be held on **Monday 26<sup>th</sup> March, 2018 in Committee Room 7, Main Parliament Buildings at 9.30 am.**

Kindly fill the attached questionnaire as required by the Public Appointments (Parliamentary Approval) Act, 2011 and return **on or before Friday 23<sup>rd</sup> March, 2018.** You are required to bring with you originals of your National Identity Card, academic and professional certificates and any other documents and testimonials. In addition, you should bring letters/certificates of clearance from the following:-

- i. Ethics and Anti-Corruption Commission.
- ii. Kenya Revenue Authority Tax Compliance Certificate.
- iii. Higher Education Loans Board.
- iv. Criminal Investigation Department.

Yours

A handwritten signature in black ink, appearing to read 'Samuel Njoroge', written over a horizontal line.

**SAMUEL NJOROGE**

**FOR: CLERK OF THE NATIONAL ASSEMBLY**



## ANNEXTURES 3

LETTER FROM THE OFFICE OF THE CLERK  
TO THE FOLLOWING AGENCIES:

KRA

HELB

EACC

RPP

DCI



# REPUBLIC OF KENYA



Telegraphic Address  
'Bunge', Nairobi  
Tel. +254-020-2221291  
Fax: +254-020-22243694  
E-mail: [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)  
When replying please quote

Clerk's Chambers  
National Assembly  
Parliament Buildings  
P.O. Box 41842 -00100  
NAIROBI,

## THE NATIONAL ASSEMBLY

NA/DCS/DC/2018 (11)

16<sup>th</sup> March, 2018

Mrs. Lucy Ndung'u  
Registrar of Political Parties,  
Office of the Registrar of Political Parties,  
P.O Box 1131 -00606,  
Lions Place, 1<sup>st</sup> Floor,  
Karuna Close, Waiyaki Way, Westlands,  
NAIROBI

Dear *Madam,*

**RE: VETTING OF PERSONS NOMINATED AS PERMANENT SECRETARIES, AMBASSADORS/HIGH COMMISSIONERS AND DIRECTOR OF PUBLIC PROSECUTIONS BY THE NATIONAL ASSEMBLY**

The above matter refers.

The National Assembly is in receipt of notification of nominations of five (5) persons for appointment as Permanent Secretaries, four (4) persons for appointment as Ambassadors/High Commissioners and one (1) person for appointment as Director of Public Prosecutions by H.E. the President.

As you are aware, the National Assembly is required to approve the nominees for appointment in accordance with the provisions of Article 132 (2)(d) & (e), 155 (3) and 157 (2) of the Constitution and the Public Appointments (Parliamentary Approval) Act, 2011.

In light of the foregoing, and in accordance with Standing Order 216(5)(f) as read with the second schedule to the National Assembly Standing Orders, the relevant Departmental Committees of the National Assembly are mandated to consider,

for approval by the House, appointments under Articles 132 (d)&(e), 155(3) and 157 (2) of the Constitution.

Pursuant to Section 7(b) of the Public Appointments (Parliamentary Approval) Act, the Committees are mandated to consider whether the nominees meet all Constitutional and Statutory requirements relating to the office in question.

In view of Article 77(2) which prohibits an appointed State Officer from holding office in a political party, this is therefore to request you to provide the Committees with information on whether any of the nominees holds an office in any political party. This information will assist the Committees to effectively undertake their mandate.

Attached please find the list of the nominees and the relevant details for your action.

We will appreciate if the information is received on or before **Friday 23<sup>rd</sup> March, 2018**

Yours



**SAMUEL NJOROGE**  
**FOR: CLERK OF THE NATIONAL ASSEMBLY**

encl

## NOMINEE'S DETAILS

PRINCIPAL SECRETRIES NOMINEES			
NO.	NAME	KRA PIN	ID NO.
1.	Mr. John Morangi Omengo	A002240124U	0300901
2.	Mr. Alfred Kipkorir Cheruiyot	A001666999W	1738488
3.	Mr. Jerome Okoth Ochieng	A002366923T	10774338
4	Ms. Susan Komen Koech	A001138373S	11339481
5.	Mr. Harry K. Kimutai	A002495173A	9021254
AMBASSADORS/HIGH COMMISSIONERS NOMINEES			
1.	Amb. Richard Titus Ekai	A002381505A	7477635
2.	Eng. John Okuna Ogango	A 001110925U	8124813
3.	Hon. Wilfred Gisuka Machage	A000206848R	1681095
4.	Hon. Mohamed Muktar Shidiye	A001109996E	3518089
DIRECTOR FO PUBLIC PROSECUTIONS NOMINEE			
1.	Mr. Noordin Mohammed Haji	A002798514C	11521421





REPUBLIC OF KENYA



Telegraphic Address  
'Bunge', Nairobi  
Tel. 2221291/2848000  
Fax: 2243694  
E-mail: [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)

Clerk's Chambers  
National Assembly  
Parliament Buildings  
P.O. Box 41842 – 00100  
NAIROBI, Kenya

*When replying please quote*

THE NATIONAL ASSEMBLY

NA/DCS/DC/2018 (15)

16<sup>th</sup> March, 2018

Mr. John Njiraini, MBS  
Commissioner General,  
Kenya Revenue Authority,  
Times Towers, 30<sup>th</sup> Floor,  
Haile Selassie Avenue,  
P.O Box 48240 -00100  
**NAIROBI**

Dear *SYI*

**RE: VETTING OF PERSONS NOMINATED AS PERMANENT SECRETARIES, AMBASSADORS/HIGH COMMISSIONERS AND DIRECTOR OF PUBLIC PROSECUTIONS BY THE NATIONAL ASSEMBLY**

The above matter refers.

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As you are aware, the National Assembly is required to approve the nominees for appointment in accordance with the provisions of Article 132 (2)(d) & (e), 155 (3) and 157 (2) of the Constitution and the Public Appointments (Parliamentary Approval) Act, 2011.

In light of the foregoing, and in accordance with Standing Order 216(5)(f) as read with the second schedule to the National Assembly Standing Orders, the relevant

Departmental Committees of the National Assembly are mandated to consider, for approval by the House, appointments under Articles 132 (d)&(e), 155(3) and 157 (2) of the Constitution.

Pursuant to Section 7(b) of the Public Appointments (Parliamentary Approval) Act, the Committees are mandated to consider whether the nominees meet all Constitutional and Statutory requirements relating to the office in question.

This is therefore to request you to provide a report on tax compliance by the nominees. This information will assist the Committees to effectively undertake their mandate.

Attached please find the list of the nominees and the relevant details for your action.

We will appreciate if the information is received on or before **Tuesday 20<sup>th</sup> February, 2018**

Yours



**SAMUEL NJOROGE**

**FOR: CLERK OF THE NATIONAL ASSEMBLY**

encl

## NOMINEE'S DETAILS

PRINCIPAL SECRETRIES NOMINEES			
NO.	NAME	KRA PIN	ID NO.
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DIRECTOR FO PUBLIC PROSECUTIONS NOMINEE			
1.	Mr. Noordin Mohammed Haji	A002798514C	11521421



# REPUBLIC OF KENYA



## Telegraphic Address

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*When replying please quote*

**NA/DCS/DC/2018 (13)**

THE NATIONAL ASSEMBLY

Clerk's Chambers  
National Assembly  
Parliament Buildings  
P.O. Box 41842 – 00100  
NAIROBI, Kenya

16<sup>th</sup> March, 2018

Mr. Halake Dida Waqo, *CBS*  
Secretary/Chief Executive Officer,  
Ethics and Anti - Corruption Commission,  
Integrity Centre,  
Milimani/Valley Road Junction,  
P.O Box 61130 -00200,  
**NAIROBI**

Dear *Str,*

**RE: VETTING OF PERSONS NOMINATED AS PERMANENT SECRETARIES, AMBASSADORS/HIGH COMMISSIONERS AND DIRECTOR OF PUBLIC PROSECUTIONS BY THE NATIONAL ASSEMBLY**

The above matter refers.

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In light of the foregoing, and in accordance with Standing Order 216(5)(f) as read with the second schedule to the National Assembly Standing Orders, the relevant Departmental Committees of the National Assembly are mandated to consider,

for approval by the House, appointments under Articles 132 (d)&(e), 155(3) and 157 (2) of the Constitution.

Pursuant to Section 7(b) of the Public Appointments (Parliamentary Approval) Act, the Committees are required to consider among other issues the personal integrity and background of the nominees in terms of compliance with the principles of leadership and integrity as set out in Chapter Six of the Constitution.

As the Constitutional body mandated to oversee the implementation of the provisions of Chapter Six of the Constitution, this is therefore to request you to provide any adverse information touching on the integrity of the nominees that may be in the possession of the Commission. This information will assist the Committees to effectively discharge its mandate.

Attached please find the list of the nominees and the relevant details for your action.

We will appreciate if the information is received on or before **Friday 23<sup>rd</sup> March, 2018**

Yours



**SAMUEL NJOROGE**

**FOR: CLERK OF THE NATIONAL ASSEMBLY**

encl

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<b>DIRECTOR FO PUBLIC PROSECUTIONS NOMINEE</b>			
1.	Mr. Noordin Mohammed Haji	A002798514C	11521421

