

REPUBLIC OF KENYA



KENYA NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL
RESOURCES

ELEVENTH PARLIAMENT-SECOND SESSION

REPORT

ON

THE CONSIDERATION OF THE WATER BILL, 2014

THE SIXTH REPORT OF THE SECOND SESSION, 2014

THE CLERK'S
CHAMBERS

OCTOBER 2014



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ABBREVIATIONS

BWRC	Basin Water Resources Committees
KCWFSKA	Kitui County Forest Water and Sand Conservation Association
KDDN	Kuria District Disability Network
KEPSA	Kenya Private Sector Alliance
KWP	Kenya Water Partnership
KWS	Kenya Wildlife Service
MEWNR	Ministry of Environment, Water and Natural Resources
MUB	Mwingi Union for the Blind
NECSA-K	National Environment Civil Society Alliance
PACJA	Pan African Climate Justice Alliance
PPP	Public Private Partnership
RIMUA	River Migori Water Resource Users Association
TEI	Taita Environment Initiatives
UDPK	United Disabled Person in Kenya
UDPL	United Disabled Person in Laikipia
WASREB	Water Services Regulatory Board
WHSA	National Water Harvesting and Storage Authority
WRRRA	Water Resources Regulatory Authority
WSRB	Water Resource Users Associations
WSRB	Water Services Regulatory Board
WSTF	Water Sector Trust Fund
WWDB	Water Works Development Boards

CHAPTER 1

1.0 Introduction

1.1 Committee Mandate and Membership

The Departmental Committee on Environment and Natural Resources is established under the National Assembly Standing Orders No. 216(1). The functions and mandate of the Committee are also contained under the National Assembly Standing Orders, No. 216(5) as:-

- 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 the Ministries and departments and the effectiveness of the implementation;
- c) Study and review all legislation referred to it;
- d) Study, assess and analyze the relative success of the Ministries and Departments as measured by the results obtained as compared with its 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 204; and
- g) Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

The subject matter of the Departmental Committee on Environment and Natural Resources are stated in the Second Schedule of the National Assembly Standing Orders No. 216(f) as follows:

climate change, environment management and conservation, forestry, water resource management, wildlife, mining and natural resources, pollution and waste management.

1.2 Current Committee Membership

1. Hon. Amina Abdalla, M.P., **Chairperson**
2. Hon. A. K. Kosgey, M.P., **Vice Chairperson**
3. Hon. Alice Ng'ang'a, M.P.
4. Hon. Samuel Ndiritu, M.P.
5. Hon. Aisha Jumwa Karisa, M.P.
6. Hon. Ejidius Njogu Barua, M.P.
7. Hon. Jude Njomo, M.P.
8. Hon. Moitalel Ole Kenta, M.P.
9. Hon. Kathuri Murungi, M.P.
10. Hon. Sunjeev Birdi, M.P.
11. Hon. Jackson K. Rop, M.P.
12. Hon. Abdi Noor Ali, M.P.
13. Hon. Joyce Emanikor, M.P.
14. Hon. Abdulaziz Farah, M.P.
15. Hon. Ronald Tonui, M.P.
16. Hon. (Dr.) Reginalda Wanyonyi, M.P.
17. Hon. Gideon Mwiti, M.P.
18. Hon. Hassan Dukicha, M.P.
19. Hon. Zainab Chidzuga, M.P.
20. Hon. Chachu Ganya, M.P.
21. Hon. Opiyo Wandayi, M.P.
22. Hon. Charles G. Mongare, M.P.

23. Hon. (Dr.) Wilber K. Otlichilo, M.P.
24. Hon. Khatib Mwashetani, M.P.
25. Hon. George Ogalo, M.P.
26. Hon. (Major) Muluvi Mutua, M.P.
27. Hon. Mohamed, Diriye M.P.
28. Hon. Peter Kinyua, MP.
29. Hon. Shukra Hussein Gure, M.P.



DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL
RESOURCES

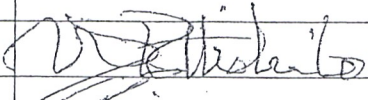
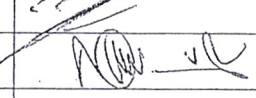

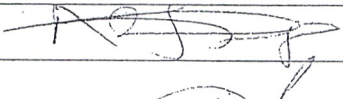
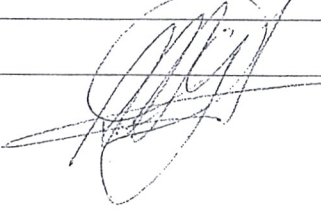
ATTENDANCE / PAYMENT SCHEDULE

DATE: 16/10/2019 TIME: 10.00a VENUE: CPA Room

AGENDA: ADOPTION OF THE WATER BILL REPORT

1	NAME	SIGNATURE
	Abdalla, Amina CHAIRPERSON	
2	Alexander Kosgey Vice Chairperson	
3	Dukicha, Hassan Abdi	
4	Emanikor, Joyce Akai	
5	Ganya, Francis Chachu	
6	Geni, Charles Mongare	
7	Gure, Shukra Hussein	
8	Ole Kenta, Richard Moitalel	
9	Mohamed, Diriye Abdullahi	
10	Murungi, Kathuri	
11	Ogalo, George Oner	
12	Sunjeev Kour Birdi	
13	Tonui, Ronald Kiprotich	
14	Dr. Wanyonyi, Reginalda N	
15	Farah, Abdulaziz Ali	
16	Barua, Ejidius Njogu	
17	Irea, Gideon Mwiti	
18	Chidzuga, Zainab Kalekye	
19	Muluvi, Marcus Mutua	
20	Mwashedani, Khatib	

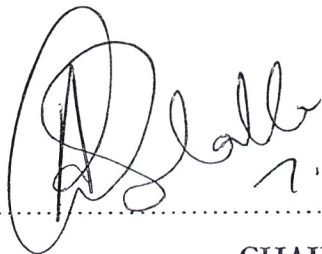
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22	Ottichilo, Wilber Khasilwa	
23	Rop, Jackson Kipkorir	
24	Abdinoor, Mohammed Ali	
25	Ng'ang'a, Alice Wambui	
26	Peter Kinyua	
27	Wandayi, James Opiyo	
28	Katana, Aisha Jumwa	
29	Jude Njomo	


JAMES GINONO

FOR -CLERK OF THE NATIONAL ASSEMBLY

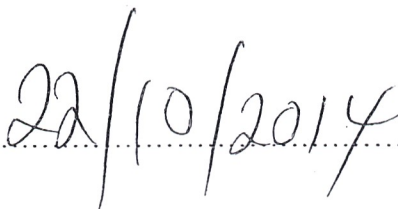
SIGNED



CHAIRPERSON

(HON.AMINA ABDALLA, MP)

DATE



1.3 The Water Bill, 2014

1.3.1 Pre-publication activities

The legislative proposal giving rise to the Water Bill, 2014 was submitted to the Committee by the Cabinet Secretary for Environment, Water and Natural Resources. Pursuant to long running consultations with stakeholders on the need for reforms, there was need to review the existing statutory regime to address emerging challenges caused by a growing urban population and an increased strain on water resources. The Bill was then sponsored by the Leader of the Majority Party Hon. Aden Duale. The legislation also seeks to introduce a statutory regime that conforms to the Constitution (2010), international instruments that Kenya has ratified, Vision 2030 and the Millennium Development Goals. The Water Bill, 2014 seeks to provide for the regulation, management and development of water resources and water and sewerage services.

1.3.2 Referral to the Committee

The Bill having been read a first time on 22nd April 2014 stood committed to the Committee for consideration pursuant to the provision of the National Assembly Standing Orders No. 127(1).

The Bill seeks to make provision for the regulation, management, conservation, use and development of water and sewerage services.

1.3.3 Conduct of the review inquiry

In line with the constitutional requirement for public participation in legislative processes, the committee advertised call for public participation in the Daily Nation newspaper and invited the public to make submissions by 8th May 2014. A copy of the advertisement is attached to the report as **annex 2**.

The committees received submissions, listed in **annex 1** and are available with the Committee Secretariat. These submissions were made through written memoranda and verbally by the interested parties. The Committee held meetings which involved receiving stakeholders input and a clause by clause review of the Bill.

1.3.4 Output of the Review Inquiry process

The review process concluded with a list of agreed amendments that the Committee will be presenting to the house for consideration and possible adoption. In making its recommendations, the Committee examined the Bill clause by clause. Where objections were registered with respect to a particular clause in the Bill, the Committee proposed amendments by consensus using the available information and triangulating different sources of submissions made on the provisions of the clause to be amended. The Committee intends to move these amendments at the Third Reading stage of the Water Bill, 2014.

CHAPTER 2

2.0 The Rationale for the Review of the Water Sector Legal Framework

Water is a limited natural resource that is fundamental for life and health and the socio-economic development of the country. While the natural course of water cannot be changed, available water resources and the provision of water services should be prudently managed to ensure that all Kenyans have access to clean and safe water in adequate quantities. The availability of water resources ensures that there is water supply. Similarly, the supply of water is inextricably linked to providing reasonable standards of sanitation.

Global statistics indicate that one billion persons lack access to a basic water supply, while several billion do not have access to adequate sanitation, which is the primary cause of water contamination and diseases linked to water. In Kenya, poor drinking water quality and poor sanitation is worsened by accelerating urbanisation and the increase in informal settlements. It is estimated that 70% of the population in Kenya will be urbanised by 2050. Poor drinking water quality and poor sanitation costs Kenya 27 billion shillings each year. 4.3 billion shillings is lost in health care costs, 2.2 billion shillings is lost in access time, 300 million shillings is lost in productivity losses while sick while 20 billion is lost in premature deaths¹.

2.1 Water Sector Reforms

Wide ranging reforms based on the National Water Policy, 1999² culminated in the enactment of the Water Act, 2002 which introduced radical reforms to the Water Sector. These included the separation of the management of water resources from the provision of water services. Water Resource Management and Development entails raw water extraction, storage, transport and effluent discharge control and Water Service Provision entails drinking water, the sewer system, sludge management which is treatment and distribution.

It also included the separation of policy making, regulation and provision of water services to avoid conflict of interests and socially responsible commercialization and professionalization of service

¹ WSP Programme (World Bank) on the Economic impact of poor sanitation in Africa (2012)

² Adopted by Parliament as Sessional Paper No. 1 of 1999.

provision to improve sector performance. The reforms also included consumer protection and basic rights for all through regulation with national minimum standards.

Current challenges in the water sector include data collection, for example in informal settlements and especially in rural areas. This also includes the lack of coordination between institutions, challenges of funding because of the global economic recession and poor revenue collection locally, lack of capacity in terms of equipment and professionals as well as the creation of water service boards which cover too many counties especially in Northern Kenya.

The Water Bill, 2014 seeks to build on the gains of the Water Act, 2002 while correcting its shortcomings. The Bill also seeks to operationalize the provisions of the Constitution.

2.2 Conforming to the Constitution (2010)

The Constitution entrenched economic and social rights in the Bill of Rights which includes the right to reasonable standards of sanitation and the right to clean and safe water in adequate quantities for every Kenyan³. The Water Bill, 2014 further seeks to operationalize the devolution provisions of the Constitution. Article 6(2) stipulates that *“the governments at national level and county level are distinct and interdependent.”* Pursuant to Article 186(1), the Fourth Schedule to the Constitution allocates functions between the national government and county governments. In this regard water-related functions are shared.

2.2.1 Functions of the National Government

The Constitution places the responsibility of realizing the right to water for all Kenyans under the national government. It specifically states that the State has the responsibility to *‘observe, respect, protect, and fulfill the rights and fundamental freedoms in the Bill of Rights’* which includes socio-economic rights⁴. The obligation of the national government to implement these rights has been enforced by High Court decisions citing that the government must be seen to take active steps towards the realization

³ Article 43 (b), (d) of the Constitution (2010)

⁴ Article 21 of the Constitution (2010)

of socio-economic rights by its citizens⁵. In order to operationalize these rights, the national government should ensure that it sets the standards and structures necessary to fulfill the constitutional right to water. The national government is also tasked with the protection of consumer rights⁶ and the protection of the environment and natural resources⁷.

Part 1 of the Fourth Schedule sets out the functions of the National government with regard to the water sector. These include:-

- a) The use of international waters and water resources;
- b) Consumer protection;
- c) National public works;
- d) water protection, securing sufficient residual water, hydraulic engineering and the safety of dams;
- e) Capacity building and technical assistance to counties.

Water resource management is clearly a national government role irrespective of where it is found.

2.2.2 Functions of the County Government

County governments may delegate their duty to Water Service Providers (WSPs) who are commercially oriented public enterprises. Currently, service provision is regulated by service provision agreements (SPAs) to ensure compliance with the standards on quality, service levels and performance established by WASREB. Part 2 of the Fourth Schedule sets out the functions of the county governments with regard to the water sector. These include:-

- a) Implementation of specific national government policies on natural resources and environmental conservation including soil and water conservation and forestry
- a) County public works and services including storm water management systems in built up areas and
- b) Water and sanitation services.

⁵ Mitu-Bell Welfare Society vs Attorney General and 2 others, Nairobi Petition No.164 of 2011 and; Satrose Ayuma & 11 others vs The Registered Trustees of The Kenya Railways Staff Retirement Benefits Scheme and 2 others, Petition No.65 of 2010.

⁶ Article 46 (1)

⁷ Article 69

2.3 Provisions of the Water Bill, 2014

The Water Bill, 2014 seeks to repeal the *Water Act 2002*. The Bill seeks to reflect the constitutional principles of the right to water, consumer protection and devolution. The Bill also seeks to address key functions such as public works & infrastructure development, regulation of water abstraction and water services provision, tariff setting and financing mechanisms (fees & water user charges). The specific provisions of the Water Bill, 2014 are as follows:

Part I- Preliminary

Part I of the Bill provides the Preliminary Provisions. It sets out the mandate of the Bill which is to provide for the regulation, management and development of water and sewerage services. Clause 4 provides for the principles and values that should guide any person administering the Bill which includes Articles 10, 43, 60 and 232 of the Constitution

Part II – Ownership, use and management of water resources

Clause 5 provides that every water resource is vested in and held by the national government in trust for the people of Kenya. Clause 6 covers the regulation of the management and use of water resources while Clause 9 defines National Public Water Works.

Part III-Regulation of the management and use of water resources

Clause 9 established the Water Resources Regulatory Authority (WRRA) and the functions and powers of the Authority. Clause 18 empowers the Authority to classify water resources and determine quality objectives. Other functions of the Authority under this part include setting up a national monitoring and information system on water, protection of catchment areas and conservation of ground water. The Authority may also define basin areas in consultation with the Cabinet Secretary. Clause 23 provides for the establishment of establishes Basin water resources committees.

Clause 27 provides for the establishment and functions of the Water Resource Users Associations (WRUAs) at the sub-basin level. Clause 28 provides established the National Water Harvesting and Storage Authority. It also regulates water rights and works including ground water and entry on land.

Part IV- Water Services

Clause 62 provides for the formulation of a National Water Services Strategy by the Cabinet Secretary. Clause 63 provides for the establishment of the Water Works Development Boards (WWDB) while Clause 68 provides for the establishment of the Water Services Regulatory Authority (WSRA). Clause 72 deals with the accreditation of water services providers under the WSRA while Clause 75 provides that the county government may establish water services providers. Clause 80 further provides a party aggrieved by the decisions of a water service provider may appeal to the (WSRA). This part also provides for the agreements as to the protection of sources of water and on sewerage services levy

Part V-Water Sector Trust Fund

Clause 111 establishes the Water Sector Trust Fund. The objects of the Fund which includes provide grants to counties in addition to the Equilisation Fund for underserved areas. Clause 115 provides for the sources of funds for the Water Sector Trust Fund.

Part VI-Dispute Resolution

Clause 117 establishes a Water Tribunal which shall be a subordinate court. This part provides for the jurisdiction and the determination of appeals. Clause 122 provides that the appeals on the decisions of the Water tribunal may be made to the Land and Environmental Court within twenty one days.

Part VII-Financial Provisions

Clause 124 provides the sources of funds for the institutions established in the Bill. It also provides for the financial year, annual estimates and keeping of accounts and audits. Clause 30 is important as it provides that all income obtained from water permits, abstraction and water user fees shall be entirely used for the management of water resources.

Part VIII-General Provisions

This part provides for the service of notices, conditions on issuance of orders under the Act and authentication of documents. Clause 137 provides for public participation with regard to any applications or action proposed under the Act. Clause 138 gives the WRRRA special powers in case of a shortage of water. Other provisions under this part include the powers of the Cabinet Secretary

to make regulations, obstruction or pollution of a water course of water resource and other miscellaneous offences under the Act. Clause 145 sets a general penalty which shall be a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years or both.

Part IX- Transition

The transitional provisions include the transfer of functions, assets, liability and staff from Water Resource Management Authority to the Authority in Clause 146. It further provides for the transfer of functions with regard to existing institutions to the institutions proposed in the Act.

Schedules

First Schedule

It covers the membership and procedure of Boards and Committees with regard to clause 12, 24, 29, 69 and 113.

Second Schedule

It relates to the conditions relating to construction of works pursuant to clause 39. It defines the scope of the permit given by the Authority with regard to authorized works.

Third Schedule

It covers easements pursuant to clause 37 and their scope with regard to rights of access, damage caused by works of a permit holder as well as the consent of a landholder to easement.

Fourth Schedule

It provides for abstraction of ground water pursuant to clause 54.

The Bill includes a memorandum of objects and reasons.

CHAPTER 3

3.0 The Review Process for the Water Bill, 2014

The Committee invited oral and written submissions from stakeholders in the water sector and carefully examined the issues that arose from the Water Bill. The Committee held several meetings with stakeholders in order to understand the experiences of the current players in the water sector within the current legal framework, the challenges faced and the gaps that exist. The stakeholders hailed the Bill as a positive response toward complying with the Constitution 2010 and the improvement of the regulation, management and development of water resources, water and sewerage services.

However, the stakeholders were concerned about the institutional framework proposed in the Bill with the major reservations being about the large number of institutions proposed and the lack of clarity between national government functions and county government functions with regard to the Fourth Schedule. The stakeholders further noted the need to build on the gains already made in the water sector reforms from the Water Policy, 1999 to the enactment of the *Water Act 2002*. The general consensus was that the Water Bill, 2014 should improve on these reforms but not discount them.

3.1 Issues Raised in Submissions by the stakeholders and the Public

The Committee welcomed memoranda and oral submissions from a wide range of stakeholders. These included the Water Services Regulatory Board (WASREB), Ministry of Environment, Water and Natural Resources, The Council of Governors, The Nairobi City County, Kenya Private Sector Alliance (KEPSA), Kenya Water Partnership (KWP), National Environment Civil Society Alliance (NECSA-K), Trade Unions (Kenya County Government Workers Union, Union of Kenya Civil Servants and Union of Commercial Food and Allied Workers) and The Katiba Institute.

The committee also received memoranda from community groups under VSO Jitolee. The Memorandum enjoined the Pan African Climate Justice Alliance (PACJA), United Disabled Person in Kenya (UDPK), Kitui County Forest Water and Sand Conservation Association (KCWFSCA), Mwingi Union for the Blind (MUB), II Ngwesi Community Trust, United Disabled Person in Laikipia (UDPL), Kuria District Disability Network (KDDN), River Migori Water Resource Users

Association (RIMUA), Taita Environment Initiatives (TEI) and Wundanyi Disabled Self Help Group)

The major concerns raised by stakeholders include:

- A. Institutional framework
- B. Aligning the Bill to the Water Policy 1999 and the Water Act 2002
- C. Streamlining the Bill with Constitutional provisions
- D. Public Participation
- E. Privatization
- F. Transfer of assets, liabilities and staff
- G. Inclusion on Persons with Disabilities
- H. Dispute Resolution
- I. Payment of Ecosystem Services
- J. Water Research and Training
- K. Sewerage and Waste Water Management Services
- L. Regulation of Wetlands

3.1.1 Institutional Framework

The Bill proposes to establish the following institutions:

- a) Water Resources Regulatory Authority (WRRRA) **(Clause 9)**
- b) Water Services Regulatory Board **(Clause 68)**

- c) Basin Water Resources Committees **(Clause 23)**
- d) National Water Harvesting and Storage Authority (WHSA) **(Clause 28)**
- e) Water Works Development Boards (WWDB) **(Clause 63)**
- f) Water Sector Trust Fund **(Clause 111)**
- g) Water Tribunal **(Clause 117)**
- h) Water Resource Users Associations (WRUAs) **(Clause 27)**

Several issues arose with regard to the Institutional framework proposed in the Bill. These included:

3.1.1.1 Number of institutions proposed in the Bill

Then Nairobi City County and WWF noted that there is a multiplicity of bodies and institutions making the proposed structure cumbersome and opaque. The Nairobi County Council raised concern that the institutions proposed have to be catered for by the tariff and the effect is that the cost of water and sanitation services is made expensive for the consumer. Reducing the number of institutions will translate into reduced cost of living for the consumers.

i. Risk of high recurrent costs

The Trade Unions noted that too many institutions created will result in high recurrent costs as opposed to investing the same on development of water facilities and value for money from the many national institutions which could easily be merged or done away with. They further noted that water is a finite environmental resource that imposes environmental costs hence the need for heavy regulations in both resource management and water and sanitation services.

ii. Recommendations with regard to streamlining institutions

The Nairobi City County suggested that the proposed Water Works Development Boards (**Clauses 64-68**) are not necessary. The roles ascribed to them can be carried out by the National Water Harvesting and Storage Authority and the Water Service Providers (WSPs).

On the other hand, NECSA-K proposes that the WHSA and WWDB should be collapsed into one because there is an overlap of functions between National Water Harvesting and Storage Authority (WHSA), Water Works Development Boards (WWDB) and the Basin Water Resources Committees. It recommends the abolition of the National Water Harvesting and Storage Authority.

NECSA-K recommends that the Water Tribunal in **Clause 117** be deleted from the Bill since the need for the Tribunal can be met by the already established National Environment tribunal established under the environment Management and Coordination Act of 1999. The Bill should expressly make provisions for alternative dispute resolution mechanisms to be sought before any case is referred to the National Environmental Tribunal. If the tribunal is unable to resolve a dispute, reference to the Environment and Land Court which has already been established by Article 162 of the Constitution.

3.1.1.2 Basin Committees

NECSA-K noted that the Basin Water Committees is referred to interchangeably in the Bill as Basin Water Resource Committees, Basin organization and Basin Committees. A similar body is not contained in the previous Act. NECSA-K raised concern that the institutions' legal standing is unclear.

NECSA-K recommended that the Bill should prescribe the number of basin boards to be established to reduce the risk of abuse. NECSA-K recommended that reference to the Basin Water Resources Committee/Area/Organizations should be harmonized. The oversight function over the Basin Resources Committees is not well articulated since there is no designated chair or CEO appointed. There should be provisions on the staff who will work for the committees.

3.1.1.3 Separation of functions

KWP recommended that the regulatory and implementation functions in various institutions should be separated. The roles and responsibilities of the various institutions should therefore be clearly defined. KWP raise concern that The Water Resources Regulatory Authority (WARRA) is mentioned as a regulator and an implementer. The implementation function can be delegated to the Basin Water Committees.

3.1.1.4 Independence, transparency and accountability of the institutions

WASREB and the Trade Unions recommended that there should be an independent institution to monitor, regulate and ensure that water and sanitation standards are upheld and monitored both at national level and county level. They recommended that the Bill should ensure that service delivery institutions are transparent and accountable and should ensure that water and sanitation standards are upheld at national and county levels.

3.1.1.5 Independent monitoring of delivery of services

Previous reforms introduced economic regulation and quality of service regulation through and autonomous entity charged with the mandate of licencing, monitoring, enforcing and reporting to the public the issues in the water services sector. This should be maintained in the Water Bill, 2014.

3.1.2 Aligning the Bill to the Water Policy 1999 and the Water Act 2002

WASREB pointed out that Kenya implemented wide ranging reforms based on the Water Policy of 1999 and the Water Act 2002 which should inform the Water Bill, 2014.

3.1.2.1 Ring fencing of water service revenue

The reforms achieved the ring fencing of water service revenue which means that revenue collected from water services are put back exclusively into the water sector to grow it. The introduction of ring fencing led to the formation of separate water companies who are able to manage their revenues and through the tariff process. WASREB encouraged ring fencing of water services through the formation of separate companies and ensuring their revenue are ploughed back to grow services.

WASREB noted that **Clauses 9-16** of the resources regulator (Water Resources Regulatory Authority) and **Clauses 68-71** on the services regulatory authority (Water Services Regulatory Authority). WASREB noted that there was difference of the treatment between the two water sector regulators between the Bill and the Water Act 2002. They are weakened in the bill (Section 7-10 for WARMA and Section 46-48 for WASREB in the Water Act 2002). Similarly, in **Clause 27** NECSA-K noted that the functions of Water Resource Users Associations (WRUAs) were watered down in the Bill unlike the Water Act 2002.

3.1.3 Cross-county infrastructure in counties

Currently, water companies manage assets on behalf of water service boards which have received considerable support from the national government for everyone and not just county residents. WASREB recommended that assets created by water boards are cross-county and should not be demarcated to one county because of location hence there should be no disruption of services where assets of a board cuts across counties.

3.1.3.1 Shared resources

Most water companies obtain their services from other counties which have water resources hence many economic hubs have to get water resources from a different county. This is the case for Nairobi, Mombasa, Eldoret, Nakuru, Kakamega and Athi River. This requires planning at a regional

and national level with regard to funding, ensuring delivery of service and having sustainable means to repay those funds. WASREB recommended that the water law should reflect that shared resources and service delivery will continue to be provided cross-county and that there will be sustained management for future generations.

3.1.4 Streamlining the Bill with Constitutional provisions

The law should clarify the minimum national standards in water and sanitation services and also provides a coherent linkage between the two levels of government. It should ensure coordinated implementation of rights and enforcement measures on performance against the water service providers and third parties.

3.1.4.1 Devolution

WASREB recommended that the new Bill should not retrogress from what was already provided for in the Water Act 2002 but instead improve on the provisions to ensure it realizes what is provided in the Constitution which now includes devolution and provides water and sanitation as human rights.

KWP noted that with regard to Devolution, inter-county issues and initiatives are not legislated upon. The institutions should derive their mandates from the Constitution of Kenya 2010 and should be included in the Bill.

The Trade Unions raised concern that the National governments role and that of County governments are not clearly unbundled in the Bill and responsibility that ensures accountability assigned to each level of government. The functions of the WRUA in clause 27 (4) should be expressly stated in the Bill to devolve the functions to the lowest levels. The Agency status of WRUAs should be strengthened. Financing of WRUAs should be expressly prescribed in the part of the Water Bill on Financial Mechanisms. Issuance of Water abstraction permits should be done in collaboration with WRUAs.

3.1.4.2 Implementation of the right to water

WASREB noted that the Bill should be guided by the National Water Policy and the Water Act 2002. Accountability and responsibility should be assigned for both levels of government to ensure there is no duplication of roles or wastage of resources. The Trade Unions noted that the Bill should

prioritize water for personal and domestic use over industrial use and should specifically charge relevant National and County government agencies with responsibility for fulfillment of the laws mandate by considering the human right to water policy, programming and budgetary activities.

3.1.4.3 Transitional Provisions

Section 154(4) of the Bill provides for a transitional period of three years from commencement. The section should be amended to take cognizance of the fact that under Legal Notice No. 177 of 2013, water and sanitation services in Nairobi City County were transferred to the County Government of Nairobi in August 2013. In addition, the section should be aligned with the Constitution which provides that the devolution of services shall be within three years after the first election.

3.1.5 Public Participation

The Trade Unions raised concern that there has been low-key public participation on development of the new law which has far reaching implications especially on the sector Governance. The Ministry has ignored workers views and has refused to recognize trade unions as a stakeholder.

3.1.6 Privatization

The Trade Unions noted that the Bill invariably contains clauses which if allowed to pass will render water and sewerage provisions private, therefore becoming inaccessible and unaffordable to the majority poor, low income earners and making water facilities and value for money from the many national institutions which could easily be merged or done away.

KWP noted that the Bill does not mention the PPP Act 2013 which is very crucial in devolved Government and recommended the operationalization of the PPP Act 2013. On the contrary, the Trade Unions recommended that the best alternative to management of public water is the Public-Public Partnership (PUPs) as opposed to PPPs. PUPs are simply relationships between public authorities or organizations aimed at developing capacity to be effective and accountable public services.

3.1.7 Transfer of assets, liabilities and staff

The Trade Unions pointed out that the transfer of assets, liabilities and staff does not feature in the bill despite the unfinished transfer plan according to Water Act 2002. This should serve as a basis

for further transfer in the current dispensation. To address the many challenges that have derailed reforms in the sector, involvement of all stakeholders in the transfer planning is of paramount.

3.1.8 Inclusion of persons with disabilities

VSO Jitolee noted that there were no overt provisions in the Water Bill that catered for persons with disabilities. Further, the Bill does not give due regard to the unique needs of persons with disabilities in the management, conservation and access to water. VSO Jitolee recommended that the Bill should give provision for development of guidelines and programmes that take into consideration the specific needs of persons with disabilities in all planning, development and decision-making regarding access to water. The stakeholders also recommended that persons with disabilities should have access to information on water management. It is noteworthy that this is guaranteed in the Constitution.

3.1.9 Payment for Eco-System Service

NECSA_K finds that the Water Bill 2014 lacks innovative incentive systems to encourage the conservation of water catchment areas. It proposes that the Bill be amended to include provisions allowing the Cabinet Secretary to formulate regulations for Payment for Ecosystem Service (PES). The provision should include the establishment of a mechanism/exchange to facilitate collection and allocation of such payments. In order to ensure sustainable financing of Water Resource Users Associations (WRUA), which play an important role in water resources Management, the proposed Water Resources Regulatory Authority should set aside 25% of all monies collected from permits and water use fees for reallocation to WRUA in the catchments

3.1.10 Water Research and Training

The building and maintaining of an adequate capacity in water resources management is a critical aspect of water resources management. The Water Bill 2014 conspicuously misses the consideration for Research and Training. NESCA-K recommends that the Water Bill includes provisions for the establishment of a Water Training and Research Institute to be known as the Kenya Water Research and Training Institute.

The institute should be a body corporate with perpetual succession and with a common seal. The object and purposes of the Institute will be to undertake training and Coordinate research in water and sanitation.

3.1.11 Sewerage and Waste Water Management Services

The Water Bill has limited provisions for waste management which is an inevitable by-product of all water uses. The Bill should include adequate provisions for waste management, responsibilities for the development of a plan for dealing with waste water and water quality equivalent to the five year plans envisaged by the Bill for Water development programmes.

3.1.12 Regulation of Wetlands

Concern was raised over the lack of inclusion of Wetlands in the Bill pursuant to the Ramsar Convention on Wetlands to which Kenya is a signatory. The Convention uses a broad definition of the types of wetlands covered in its mission, including lakes and rivers, swamps and marshes, wet grasslands and peat lands, oases, estuaries, deltas and tidal flats, near-shore marine areas, mangroves and coral reefs, and human-made sites such as fish ponds, rice paddies, reservoirs, and salt pans. Kenya has designated five Ramsar sites including Lake Nakuru , Lake Naivasha, Lake Bogoria, Lake Baringo and Lake Elementaita .Other sites proposed for designation as Ramsar sites include Tana Delta, Yala swamp and Sio-Siteko, Saiwa swamp. Currently, the wetlands fall under the purview of the Kenya Wildlife Service (KWS) but they should be included under the Water Bill, 2014.

CHAPTER 4

4.0 Committee Observations and Recommendations

4.1 General Observations

The Committee extensively scrutinized the Bill, consulted experts in the water sector, analysed memoranda submitted to the Committee and held consultative meetings with stakeholders. The Committee made general observations with regard to pertinent issues arising from the Bill.

The Water Bill, 2014 seeks to reflect the pillars of effective water sector management which relies on the separation of water resource management from service delivery functions. International best practice reflects this separation of functions. For example in the United Kingdom this is reflected in two legislative frameworks, that is the Water Resources Act and the Water Industry Act. The Water Bill, 2014 follows this principle by separating the resources regulatory framework and the services regulatory framework. The Committee noted that unless water resources are well managed, there will be no water in the pipes. One of the major concerns in urban areas is that of water boreholes drying up because the water sources are no longer viable.

In this regard, the Committee noted that there has to be independent regulation to ensure that those responsible for managing the water resources and those responsible for managing the provisions of water services are regulated by someone independent of them. This should be done by a regulator which is independent from the government.

Another contentious issue noted by the Committee is the responsible commercialisation of services. Water is perceived as philanthropy or a public good and a service that should not be commercialised. It is perceived by the public as a commodity that should be freely provided by community groups, donors and the government. The result of this perception is that the government invests more in the water sector than it gets. The corporatization of services delivery allows for increased efficiency and allows for water revenue is invested back into the sector. It also denotes that the expenditure invested in the water sector should march the revenue. Prior to reforms, water was previously managed by city councils and local authorities and revenue collected from the water sector was invested into other services for example, clean streets.

The Constitution 2010 introduces the devolution of functions to the counties. The Committee was especially alive to the lack of clarity of functions between the national government and the county government in the Bill and the need to ensure that the constitution is operationalized. However, the Committee noted that the two levels of government are interdependent and in order to fulfil their roles effectively, there is need to devolve services from the national government with regard to setting standards, to the counties with regard to implementation. Pursuant to these observations, the Committee made specific recommendations to the Water Bill, 2014.

4.2 Committee recommendations

After the extensive consultations, deliberations and scrutiny of the Bill the committee has agreed on general categories that will guide specific amendments to the Bill. The amendments will carry the views of the public and stakeholders as well as strengthen the legislative architecture of the sector.

The Committee observed that the proposed amendments focused mainly on the following:

- A. Synergy within the institutional framework of the Water Sector
- B. Link between the national government and county government
- C. Water Sector Fund
- D. Research and Training
- E. Alignment with existing legislation
- F. Payment of Eco-System services
- G. Protection of Wetlands

4.2.1 Synergy within the Institutional Framework of the Water Sector

The Committee scrutinized the existing institutions in the water sector holistically along with the institutional framework proposed in the Water Bill, 2014. The Committee recommended that there should be synergy between all the institutions in the water sector and made specific recommendations to achieve this:

4.2.1.1 Separation of functions in the institutional framework

Informed by the effect of the wide ranging sector reforms that culminated in the enactment of the *Water Act, 2002* and noting the global best practices in the water sector, the Committee observed that the pillars of effective water management can only be achieved by ensuring that there is a separations functions between the regulatory bodies, water resource management and service

provision functions. Consequently the Committee agreed that the following institutions should be maintained in the Act:

- i. Water Resources Regulatory Authority (WRRRA) ;
- ii. Water Services Regulatory Authority (WSRA);
- iii. National Water and Harvesting and Storage Authority (NWHSA);
- iv. Basin Water Resources Committees;
- v. Water Works Development Boards (WWDB);
- vi. Water Tribunal; and
- vii. Water Resource Users Associations (WRUA).

4.2.1.2 Renaming proposed institutions

The Committee agreed that for ease of reference and in order to easily understand the mandate of the institutions, the names of the institutions should be simplified as follows:

- i. The Water Resources Regulatory Authority (WRRRA) to the Water Resources Authority (WRA)
- ii. Water Services Regulatory Authority (WASRA) to Water Services Regulatory Board (WASREB)
- iii. Waterworks Development Boards (WDB) to Waterworks Development Agencies (WADA)

4.2.1.3 Regulatory Framework

The Committee noted the due to the constitutional obligations placed on the national government to ensure that the right to water is met by all citizens and further noting that consumer protection is a national government function under the Fourth Schedule, the Committee recommended that the regulatory function in the water sector should remain with a national regulatory body. These shall be the Water Resources Regulatory Authority and the Water Services Regulatory Authority which shall provide regulation and oversight. The setting of tariffs as currently done by Water Service Providers contradicts consumer rights protection. The national regulatory body should have the function of tariff setting. In light of this, Section 120 (1) of the County Governments Act and Section 20 and 21 of the Urban Areas & Cities Act which give the role of tariff determination to counties who are in charge on Water Service Providers should be amended.

4.2.1.4 Streamlining the institutional framework

The Committee noted the large number of institutions proposed in Bill and the need to streamline and rationalize semi-autonomous government bodies to make them more efficient, to avoid overlap of functions and to ensure that the public wage bill is contained. The Committee further noted the practicality in decision-making is enhanced when decisions are made at a lower devolved level with regard to water.

4.2.1.5 The Water Harvesting and Storage Authority

In order to operationalize Article 43 (d) which not only requires that every person should have access to clean and safe water but also that it should be in adequate quantities, the Committee recommends that the Water Harvesting and Storage Authority should be retained as a national government institution. It is also the responsibility of the national government to ensure the realization of the rights of all Kenyans to safe water and reasonable standards of sanitation. This responsibility includes water protection, securing sufficient residual water, development of dams and pans, drought mitigation, flood control, hydraulic engineering and the safety of dams. The Water Harvesting and Storage Authority would be best placed as a national government agency for the purposes of Bulk water, sewerage infrastructure development and strategic national projects which cuts across counties, regions and basins. The institution is best placed as a last resort institution where counties or other institutions in the water sector are unable to fulfill their mandate.

Keeping in mind the assets and liabilities, human resources and the development of shared resources across counties, the Committee consequently recommends amendments in the transitional clauses to rebrand the National Water Conservation and Pipeline Corporation as the Water Harvesting and Storage Authority. The Committee further recommends transitional clauses that will require the vetting of the technical and management levels of all the institutions proposed in the Bill. This process should be undertaken by an independent institution.

4.2.1.6 Functions of Water Basin Committees

The Committee noted that the Basin Water Resources Committee (BWRC) do not have the capacity to fulfill the functions set out in the Bill for example storm water management. The Committee agreed that BWRCs should be primarily advisory committees. All regulatory functions currently vested in BWRCs are to be transferred to Water Resources Regulatory Authority (WRRRA) while

management functions assigned to BWRCs should be moved to the county governments and Water Resource Users Associations (WRUA). It should provide advice to the regional office of the WRA.

The Committee further agree that the Basin Water Resource Committee should be represented by the governors or a designate of the county where the basin covers. The Committee noted that while this may result in a large number of representatives in some cases, it is paramount that the basin water committee should have a wide representation.

4.2.1.7 Streamlining the functions of regional development authorities

The Committee noted that regional development authorities are established under separate Acts of Parliament which came into effect in the 1970s and 80s. The Committee noted that the intention was to use water resources as a way to spur economic growth in the areas where they covered, for example TARDA developed dams on Tana River which spurred economic activities. The Committee noted that regional development authorities do not have a clear mandate and their actual role is unclear. The committee agreed that as a policy matter the functions of the Regional Development Authorities should be re-examined. Moreover, in order to contain the wage bill, reduce the number of parastatals and avoid an overlap of functions those Acts of parliament establishing the boards should be repealed and their functions consolidated.

4.2.2 Link between the national government and the county government

Being alive to the Fourth schedule the committee noted the cross-cutting issue with regard to the devolution of functions is anchored on the availability of resources and the management of those resources. The committee agreed that the Bill should provide for cross-county public works and cross-county resources and assets. Also of note is the investment on sewerage works. The Committee noted that a lot of investment by the national government has gone into sewerage works but it is a county government function. Sanitation is at crisis point and inevitably when water is bought into the home generates waste water. The Committee noted that sanitation issues need to be addressed.

The Committee recommended that there should be elaborate transitional plans to counties though the Transitional Authority with regard to the transfer of functions and especially with regard to the tariff setting being a retained as a national government function and the management of assets .

4.2.3 Research in the water sector

The Committee noted that research is a public good and should be an obligation placed on the sector. The Committee noted that the main challenge in having a sustainable research and training framework in the water sector is financing it. Given the need to rationalize institutions in the sector, the Committee agreed that research should be mainstreamed in all the institutions as opposed to forming another institution under the Bill. The committee recommended that there should be coordination and financing of research at the national level included in the Bill as a responsibility of the state department. The Committee also agreed that the Water Service Trust Fund should be mandated to provide funding for financing research. Research proposals from institutions should be eligible for financing from the Water Sector Trust Fund. The Committee considered the inclusion of the Kenya Water Training Institute (KEWI) but recommended that it should be retained as it is, especially because of its recognition as a center under the auspices of UNESCO.

4.2.4 Water Sector Fund

The Committee noted the important role of the Water Sector Fund to serve the underserved and marginalized which includes communities in rural areas and informal settlements. The Fund will also support water companies and WRUAs.

The Committee further notes the challenge of financing the proposed Fund. The Committee agreed on several sources of funding for this important fund to include a levy for different economic classes as defined by the cabinet secretary through regulation. The Committee also agreed that the Fund should be financed through parliamentary budgetary allocations, PPP financing mechanisms, donations and grants and funds from county governments. The proposal to have the Equalisation Fund was considered but is however, not appropriate to finance the proposed Fund.

4.2.5 Alignment with existing legislation

The Committee noted that the Water Bill may affect the certain exiting legislation. These include:

- i. The Committee agreed that it is necessary to amend the Environmental Management and Coordination Act (EMCA) to confine NEMA's functions on water pollution control to coordination. NEMA should be a coordinator not an implementer and should not duplicate the roles of other institutions.

- ii. The committee agreed that the mandate of the county governments should be focused on water services provision. Consequently, the County Governments Act and the Urban Areas & Cities Act should be amended to reflect the same and especially on tariff setting of water services which should be done by a national regulatory board and additionally that the pool of resources is ring-fenced.

4.2.6 Payment for Eco-System Services

The Committee noted that there is need to provide incentives to the people who manage the conservation of water catchment areas. The Committee recommended that there should be revenue allocation to those who play an important role in ensuring water resource management. The Committee noted that this is not catered for in the Bill and recommends amendments to include provisions allowing the Cabinet Secretary to formulate regulations for Payment for Ecosystem Service (PES). The provision should include the establishment of a mechanism or exchange to facilitate collection and allocation of such payments from permits and water use fees for reallocation to those managing the catchments areas.

4.2.7 Protection of Wetlands

The Committee noted that the protection of Wetlands as a water resource is not included in the Bill. The Ramsar Convention on Wetlands to which Kenya is a signatory defines types of wetlands including lakes and rivers, swamps and marshes, wet grasslands and peat lands, oases, estuaries, deltas and tidal flats, near-shore marine areas, mangroves and coral reefs, and human-made sites such as fish ponds, rice paddies, reservoirs, and salt pans. The Committee noted that Kenya Wildlife Service (KWS) manages wetlands recognized under the Convention and which are gazetted as wildlife reserves, however this does not include those which are not under the purview of KWS. The Committee therefore recommends amendments that will include provisions protecting Wetlands as a water resource.

4.3 Recommendation for amendments

The Committee intends to propose detailed amendments to the Water Bill, 2014 to the House for consideration. The Committee will generally be proposing the deletion and addition of certain clauses especially with regard to the institutional framework proposed in the Bill. The Committee will also recommend the editing and correction of typographical errors that could alter the intended meaning of certain provisions. The Committee will further be proposing amendments in line with the **observations and recommendations** made by the committee during the review of the Bill. The Committee proposes to move the agreed amendments during the **Committee of the Whole House** of the Water Bill, 2014.

4.4 Conclusion

The Committee presents its report on the deliberations on the Water Bill, 2014 to the National Assembly for consideration and adoption. The Committee subject to the consideration of the agreed amendments that will be moved during the third reading stage of the Bill recommends that the Water Bill, 2014 be passed by the House.

Annex 1

List of Submissions for Memoranda

1. Water Services Regulatory Board (WASREB)
 2. Ministry of Environment, Water and Natural Resources and The Council of Governors
 3. Kenya Water Partnership (KWP)
 4. National Environment Civil Society Alliance (NECSA-K)
 5. Nairobi City County
 6. Kenya Private Sector Alliance (KEPSA)
 7. Trade Unions (Kenya County Government Workers Union, Union of Kenya Civil Servants and Union of Commercial Food and Allied Workers)
 8. Katiba Institute
 9. VSO Jitolee (Memorandum enjoins Pan African Climate Justice Alliance (PACJA), United Disabled Person in Kenya (UDPK), Kitui County Forest Water and Sand Conservation Association (KCWFSCA), Mwingi Union for the Blind (MUB), II Ngwesi Community Trust, United Disabled Person in Laikipia (UDPL), Kuria District Disability Network (KDDN), River Migori Water Resource Users Association (RIMUA), Taita Environment Initiatives (TEI) and Wundanyi Disabled Self Help Group)
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MINUTES OF THE 75TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES HELD ON WEDNESDAY, 16TH OCTOBER 2014 IN THE COMMITTEE ROOM C.P.A MAIN PARLIAMENT BUILDING AT 10.00 A.M.

PRESENT

1. Hon. Amina Abdalla, M.P. – Chairperson
2. Hon. Charles Geni Mongare, M.P.
3. Hon. Moitalel Ole Kenta, M.P.
4. Hon. Jackson K. Rop, M.P.
5. Hon. Zainabu Chidzuga, MP
6. Hon. Mohamed Diriye, MP
7. Hon. Emanikor Joyce, MP
8. Hon. Murungi Kathuri, MP
9. Hon. Tonui K. Ronald, MP
10. Hon. Dr. Wilber Ottichilo, M.P
11. Hon. Chachu Ganya, M.P.
12. Hon. Major Muluvi Mutua, MP.
13. Hon. Barua Ejidius Njogu, MP
14. Hon. Sunjeev Birdi Kour, MP
15. Hon. (Dr) Reginalda N. Wanyonyi, M.P.
16. Hon. Gideon Mwiti Irea, M.P.
17. Hon. Jude Njomo, MP
18. Hon. Abdi Noor Ali, M.P
19. Hon. Wandayi James Opiyo, MP

ABSENT WITH APOLOGY

1. Hon. Alexander Kosgey ,MP –**vice chair**
2. Hon. Hassan Dukicha, M.P.
3. Hon. Abdulaziz Ali Farah, M.P
4. Hon. Samuel Mathenge Ndiritu, M.P.
5. Hon. Aisha J. Katana, M.P.
6. Hon. Oner George Ogalo, MP
7. Hon. Alice Ng'ang'a Wambui, MP
8. Hon. Gure Shukra Hussein, MP
9. Hon. Mwashetani Khatib, MP
10. Hon. Peter Kinyua, MP

IN-ATTENDANCE

1. Mr. James Ginono - First Clerk Assistant
2. Ms. Marlene Andia - Legal Counsel 1
3. Mr. Joshua Ondari - Third Clerk Assistant
4. Ms. Naserian Lotuai - Third Clerk Assistant

MIN. NO.DC/ENR 268/2014 – PRELIMINARIES.

The meeting was called to order at 10:15am, followed by a word of prayer.

MIN. NO. DC/ENR/269/2014 – ADOPTION OF THE REPORT ON THE WATER BILL, 2014.

The Members present considered the Report as attached and unanimously adopted the same.

MIN. NO. DC/ENR/270/2014 – ADJOURNEMENT

There being no other business the meeting was adjourned to 21st October 2014.

SIGNED.....

Hon. Amina A. Abdalla, MP

(Chairperson)

Committee on Environment and Natural Resources

DATE.....

MINUTES OF 67TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES HELD ON TUESDAY, SEPTEMBER 9TH 2014 IN THE C.P.A ROOM, MAIN PARLIAMENT BUILDING AT 10:30 AM.

PRESENT

1. Hon. Amina Abdalla, MP. – Chairperson
2. Hon. Cle Kenta Richard Meitalel, M.P.
3. Hon. Murungi Kathuri, M.P.
4. Hon. Tonui Ronald Kiprotich, M.P.
5. Hon. Ottichilo Wilber Khasilwa, M.P.
6. Hon. Abdinoor Mohamed Ali, M.P.
7. Hon. Wandayi James Opiyo, M.P.
8. Hon. Gure Shukra Hussein, M.P.
9. Hon. Irea Gideon Mwiti, M.P.
10. Hon. Jackson Kop Kipkorir, M.P.
11. Hon. Sunjeev Kour Birdi, M.P.
12. Hon. Ogalo George Oner, M.P.
13. Hon. Chidzuga Zainab Kelekye, M.P.
14. Hon. Geni Charles Mong'are, M.P.
15. Hon. Farah Abdulaziz Ali, M.P.

ABSENT WITH APPOINTMENT

1. Hon. Alexander Kosgey, M.P. – Vice Chairperson
2. Hon. Dukicha Hassan Abdi, M.P.
3. Hon. Mohamed Diriye Abdullahi, M.P.
4. Hon. Jude Njomo, M.P.
5. Hon. Dr. Wanyonyi Reginalda N. M.P.
6. Hon. Ng'ang'a Alice Wamboi, M.P.
7. Hon. Katana Aisha Jumwa, M.P.
8. Hon. Muluvi Marcus Mutua, M.P.
9. Hon. Ganya Francis Chachu, M.P.
10. Hon. Emanikor Joyce Akai, M.P.
11. Hon. Peter Kinyua, M.P.
12. Hon. Mwashetani khatib, M.P.
13. Hon. Barua Ejidius Njogu, M.P.
14. Hon. Ndiritu Samuel Mathenge, M.P.

IN-ATTENDANCE

1. Ahmad Hassan –Senior Researcher
2. Joshua Ondari –Clerk Assistant
3. Naserian Lotua – Clerk Assistant
4. Clare Jerotich – Researcher

MIN. NO. DC/ENR/254/2014 Preliminaries

The meeting was called to order at 10:50 proceedings began with a word of prayer said by Naserian Lotuai.

MIN. NO. DC/ENR/255/2014 Consideration of the Report on Water Bill

The Committee considered the report of the Water Bill and suggested that the Ministry of Environment, Water and natural Resources, National Water Company, KEWI and Regulatory Regional Authority to be invited on Tuesday 16th September, 2014 to deliberate on:

- a) Functions of Water Basin Committee
- b) Streamlining the institution framework *especially the public N.W.C*
- c) Linkage between the National Government and County Government
- d) Research in the Water Sector *- which to report KEWI del of set up*

MIN. NO. DC/ENR/256/2014 Adjournment

There being no any other business the meeting was adjourned at 1:00pm to Tuesday 16th September, 2014.

[Handwritten signature]

SIGNED.....

CHAIRPERSON

DATE..... *7/10/2014*

MINUTES OF THE 55TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY 12TH AUGUST, 2014 IN THE C. P. A. ROOM, MAIN PARLIAMENT BUILDING AT 10.00AM.

PRESENT

1. Hon. Abdalla Amina, M.P. – Chairperson
2. Hon. Alexander Kosgey, M.P. – Vice Chairperson
3. Hon. Emanikor Joyce Akai, M.P.
4. Hon. Ganya Francis Chachu, M.P.
5. Hon. Geni Charles Mong'are, M.P.
6. Hon. Ole Kenta Richard Moitalel, M.P.
7. Hon. Murungi Kathuri, M.P.
8. Hon. Barua Ejidius Njogu, M.P.
9. Hon. Wandayi James Opiyo, M.P.
10. Hon. Dr. Wanyonyi Reginalda N. M.P.
11. Hon. Ndritu Samuel Mainenge, M.P.
12. Hon. Ottichilo Wilber Khasilwa, M.P.
13. Hon. Abdinoor Mohammed Ali, M.P.
14. Hon. Rop Jackson Kipkorir, M.P.
15. Hon. Sunjeev Kour Birdi, M.P.
16. Hon. Muluvi Marcus Mutua, M.P.
17. Hon. Irea Gideon Mwiti, M.P.
18. Hon. Mwashetani Khatib, M.P.

ABSENT WITH APOLOGIES

1. Hon. Dukicha Hassan Abdi, M.P.
2. Hon. Ng'ang'a Alice Wambui, M.P.
3. Hon. Peter Kinyua, M.P.
4. Hon. Ogalo George Oner, M.P.
5. Hon. Tonui Ronald Kiprotich, M.P.
6. Hon. Mohamed Diriye Abdullahi, M.P.
7. Hon. Gure Shukra Hussein, M.P.
8. Hon. Katana Aisha Jumwa, M.P.
9. Hon. Jude Njomo, M.P.
10. Hon. Chidzuga Zainab Kalekye, M.P.
11. Hon. Farah Abdulaziz Ali, M.P.

IN-ATTENDANCE – THE NATIONAL ASSEMBLY

- | | |
|------------------------|-------------------------|
| 1. Mr. Ahmad Kadhi | – First Clerk Assistant |
| 2. Ms. Naserian Lotuai | – Third Clerk Assistant |
| 3. Mr. Joshua Ondari | – Third Clerk Assistant |

MIN NO. DC/ENR/206/2014 PRELIMINARIES

The Chair called the meeting to order at 10.25. The meeting began with a word of Prayer followed by brief introduction.

MIN NO. DC/ENR/207/2014 EVIDENCE: OBSERVATION AND COMMENT ON WATER BILL.

The following appeared before the Committee:

KEPSA Chairman, Mr. Suvesh Palid, SPO/KEPSA, Mr. Anthony Weru, Legal Officer, Ms. Frida Mbugua, Legal Intern KEPSA, Mr. Kuria Kevin, KWIA/KEPSA, Mr. Kiai Sylvesters, Deputy CEO Kenya Flower Council /KEPSA, Mr. Njenga John, Executive Officer –Energy Services Kenya Association of manufacturers, Mr. Cheruto Martha, Regulatory Officer Kenya Assistant of Manufacturers, Ms. Wachuka Georgina.

The Committee was informed as follows: THAT

1. Develop an Overall Organ gram of all institution under the Act and its correlation to each other.

This is necessary to have overview of inter-relationship of each institution including visualizing duties and responsibility with regards to functions.

2. Distinct Economic Instruments for Private Sectors

It was reported that there is no mention in the proposed Bill for private Sector to undertake proactive and water and waste water management. Therefore there is need for clear and long term investments of wastewater recvcling, water harvesting and management of runoff .It was then in agreement that specification of the type of incentive should be stated .

3. Is enough attention /provision given to research and development for water resource management? What part of the bill ensures establishment of sound research and development in the water sector?

There is no distinct provision of National Institute for water research and development referred to in the bill. Provision and identification of Research Institute is important in the Bill.

4. What are distinct provisions for treatment of effluents and re-use /recycling in the bill as well as sanitation?

Re-use and recycling of effluents is one of the key principles for IWRM, it's important that recycling is put into consideration and also provide incentive for recycling services .Sanitation and waste management should be factored in the Bill.

5. Oil and gas sector will be heavy user and polluter of water resources .Do we need to capture this specifically as water sector management issue?

An Environmental Impact Assessment (EIA) should be done, it's not only fresh water that will be used and discharged but also production of water and it will need specific attention for management .Appropriate control and guidance are required to prevent future environmental degradation.

6. What does policy or bills say about true cost of water production and service provision? A formula or mechanism needs to be established to reflect true comprehensive cost of water.

Bill need to establish tariff and inclusion of legal tool is important to avoid conflicts; this will provide direction of water treatment plant and re-cycling.

7. Compositions of the Boards /Gender Balance: Water Resources Regulatory Authority /Water Storage Authority

In the bill there is no indication of gender balance in the structure of the Board. Appointments by the president are at maximum of any 4 members, this should be amended to make appointment from specific area.

8. Water works development boards WWDBs

There are established agencies of the national government to be known as Water works Development Boards and these boards shall be bodies' corporate. The question to put across is -How many such WWDBs will be created?

What basis is followed in creation of these bodies?

Creation of these bodies is expensive and it will drain on public resources, and this board should also include the Private Sector representation.

9. Climate change has been mentioned casually in the policy

Water is the key element in climate change, and Water Resource Management should have been climate change adaptation and mitigation.

10. Water sector trust funds do not provide equitable opportunities to access funds.

Conditional and unconditional grant to Counties is from the Bill fund and is restrictive, therefore private sector needs access to this funds. This will allow for promotion of rain water harvesting and storage systems.

11. Platform for all institutions under the Bill to meet.

There is need for a coordination forum to iron out issues and overlapping mandates, including issues for harmonizing investment in water sector.

12. Communication to public

Introduction of a clause in the bill is important as it will create awareness on water issue for various stakeholders.

MIN.NO. DC/ENR/208/2014

PROPOSED AMMENDMENTS TO CLIMATE CHANGE BILL
2014.

There was a concern by KEPSA on where the Climate Change council will be placed and they suggested it to remain at the Ministry of Environment and Natural Resources. Justification according to KEPSA is

- Coordination and the character of Ministries changes with time while function of Climate Change affairs can survive changes in the structure of Government.
- The council was placed at the Office of the Prime Minister before and there was no impact but now it's different and deliverables is at the Ministry.

- There will be measured success on the impact of Climate Change.
- There will be a mainstreaming approach at the Ministry.
- Transactional costs and duties will be felt if anchored in the Ministry of Environment and Natural Resources.

MIN. NO. DC/ENR/209/2014 ANY OTHER BUSINESS.

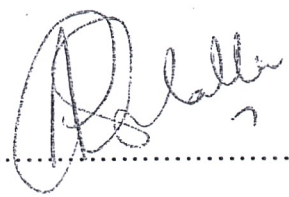
It was in agreement that on Monday 18th August 2014 for Secretariat to organize for a full day meeting with the Office of the Deputy President on Climate Bill at the BOMA Hotel Nairobi.

All reports should be submitted to the Chair for Tabling i.e.

- Australian Report — *Vicki Tabling*
- Dubai Report — *Chacha*
- Tanzania bench marking report — *Mumtaz*

MIN. DC/ENR/210/2014 ADJOURNMENT.

The next Committee meeting will be on Thursday 14th August 2014, in the Commonwealth Parliamentary Association Room, Main Parliament Building at 10.00am.



SIGNED.....

CHAIRPERSON

DATE..... *7/10/2014*

MINUTES OF THE 54TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY 7TH AUGUST, 2014 IN THE C. P. A. ROOM, MAIN PARLIAMENT BUILDING AT 11.00AM.

PRESENT

1. Hon. Abdalla Amina, M.P. – Chairperson
2. Hon. Alexander Kosgey, M.P. – Vice Chairperson
3. Hon. Emanikor Joyce Akai, M.P.
4. Hon. Ganya Francis Chachu, M.P.
5. Hon. Geni Charles Mong'are, M.P.
6. Hon. Ole Kenta Richard Moitalel, M.P.
7. Hon. Murungi Kathuri, M.P.
8. Hon. Barua Ejidius Njogu, M.P.
9. Hon. Wandayi James Opiyo, M.P.
10. Hon. Dr. Wanyonyi Reginalda N. M.P.
11. Hon. Ndiritu Samuel Mathenge, M.P.
12. Hon. Ottichilo Wilber Khasilwa, M.P.
13. Hon. Abdinoor Mohammed Ali, M.P.
14. Hon. Rop Jackson Kipkorir, M.P.
15. Hon. Sunjeev Kour Birdi, M.P.
16. Hon. Muluvi Marcus Mutua, M.P.
17. Hon. Irea Gideon Mwiti, M.P.
18. Hon. Mwashetani Khatib, M.P.

*Mwashetani
Khatib*

ABSENT WITH APOLOGIES

1. Hon. Dukicha Hassan Abdi, M.P.
2. Hon. Ng'ang'a Alice Wambui, M.P.
3. Hon. Peter Kinyua, M.P.
4. Hon. Ogalo George Oner, M.P.
5. Hon. Tonui Ronald Kiprotich, M.P.
6. Hon. Mohamed Diriye Abdullahi, M.P.
7. Hon. Gure Shukra Hussein, M.P.
8. Hon. Katana Aisha Jumwa, M.P.
9. Hon. Jude Njomo, M.P.
10. Hon. Chidzuga Zainab Kalekye, M.P.
11. Hon. Farah Abdulaziz Ali, M.P.

IN-ATTENDANCE

1. Mr. Ahmad Kadhi – First Clerk Assistant
2. Ms. Naserian Lotuai – Third Clerk Assistant
3. Mr. Joshua Ondari – Third Clerk Assistant

MIN. NO. DC/ENR/202/2014 PRELIMINARIES

The Chair called the meeting to order. Proceedings began with a word of prayer followed by brief introductions.

MIN. NO. DC/ENR/203/2014 SUMMARY INPUT BY CIC ON WATER BILL

- I. Division of roles between the central government and the county government

- i. Protection of water resources is the role of the national government while the County government will work hand in hand with the Water service Board in making sure that catchment areas are protected.
- ii. National water storage is a national government function; it's the county government mandate to store water to the residents.
- iii. Provision of service is still a County Government function.
- iv. Resource allocation and management of water resources is a national government function.
- v. Water companies are under the County Government.
- vi. Parastatals are under the County Government e.g. WRMA and licensing is done by the county.
- vii. County Government are responsible in construction of the water equipments and structures.

II. Synergy between the two Governments.

The roles are a concurrent issue and there is need for the two governments to work together for the interest of the people of Kenya. This functions can be devolved but not at the current state.

MIN. NO. DC/ENR/204/2014 ANY OTHER BUSINESS

- NDMA bill be converted to Disaster Management and secretariat to communicate with the special programme to provide information on Disaster management.
- Organise on the climate change retreat with office of the Vice President.

MIN. NO. DC/ENR/205/2014 ADJOURNMENT

There being no any other business meeting was adjourned into Tuesday 12th August, 2014 to be held in the CPA Main Parliament Building at 10.00am

SIGNED.....

CHAIRPERSON

DATE.....11/9/2014

MINUTES OF THE 52ND SITTING OF THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES HELD ON MONDAY 4TH AUGUST, 2014 AT 2.30 PM IN THE C. P. A. ROOM, MAIN PARLIAMENT BUILDING.

PRESENT

1. Hon. Abdalla Amina, M.P. – Chairperson
2. Hon. Alexander Kosgey, M.P. – Vice Chairperson
3. Hon. Emaniker Joyce Akai, M.P.
4. Hon. Ganya Francis Chachu, M.P.
5. Hon. Ole Kenta Richard Moitalel, M.P.
6. Hon. Geni Charles Mong'are, M.P.
7. Hon. Farah Abdulaziz Ali, M.P.
8. Hon. Ndiritu Samuel Mathenge, M.P.
9. Hon. Rop Jackson Kipkorir, M.P.
10. Hon. Tonui Ronald Kiprotich, M.P.
11. Hon. Irea Gideon Mwiti, M.P.
12. Hon. Sunjeev Kaur Eirdi, M.P.
13. Hon. Mohamed Diriye Abdullahi, M.P.
14. Hon. Chidzuga Zainab Kalekye, M.P.
15. Hon. Wandayi James Opiyo, M.P.
16. Hon. Abdinoor Mohammed Ali, M.P.

ABSENT WITH APOLOGIES

1. Hon. Ng'ang'a Alice Wambui, M.P.
2. Hon. Murungi Kathuri M.P.
3. Hon. Mwashetani Khatib, M.P.
4. Hon. Barua Ejidius Njogu, M.P.
5. Hon. Ottichilo Wilber Khasilwa, M.P.
6. Hon. Gure Shukra Hussein, M.P.
7. Hon. Jude Njomo, M.P.
8. Hon. Dukicha Hassan Abdi, M.P.
9. Hon. Katana Aisha Jumwa, M.P.
10. Hon. Ogalo George Oner, M.P.
11. Hon. Dr. Wanyonyi Reginalda N. M.P.
12. Hon. Peter Kinyua, M.P.
13. Hon. Muluvi Marcus Mutua, M.P.

IN-ATTENDANCE

1. Mr. Ahmad Kadhi – First Clerk Assistant
2. Mr. Ahmed Hassan – Senior Research Assistant
3. Ms. Naserian Lotuai – Third Clerk Assistant
4. Mr. Joshua Ondari – Third Clerk Assistant

MIN. NO. DC/ENR/195/2014 – PRELIMINARIES

The Chair called the meeting to order. Proceedings began with a word of prayer followed by brief introduction.

MIN. NO. DC/ENR/196/2014

EVIDENCE: NAIROBI CITY COUNTY COMMENTS ON THE WATER BILL, 2014

The following appeared before the Committee;

CEC member in charge of Energy, Water, Environment and Natural Resources, Eng. John Gakuo, Managing Director, Nairobi City Water and Sewerage Co. Ltd, Eng. Philip Gichuhi, County Chief Officer, Water, Energy and Natural Resources, Eng. Michael G. Ngari,

Technical Director Nairobi City Water and Sewerage Co. Ltd, Eng. Newason Nyore,
Company Secretary, Nairobi City Water and Sewerage Co. Ltd, Ivy Nyarango, Legal Advisor,
Nairobi City County, Gad Awuonda.

The Committee was informed on the following: THAT

(i) Number of institutions proposed in the Bill

There is a multiplicity of bodies and institutions making the proposed structure cumbersome and opaque. These institutions have to be catered for by the tariff and the effect is that the cost of water and sanitation services is made expensive for the consumer. By way of example, the proposed Water Works Development Boards (sections 64-68) are not necessary. The roles ascribed to them can be carried out by the National Water Harvesting and Storage Authority and the Water Service Providers (WSPs). This will have an additional benefit of reducing the bodies created by the Bill and the cost of living for the consumers.

(ii) Constitutional mandate of the County Government

The Fourth Schedule to the Constitution devolved county public works and services with respect to water and sanitation services. This now rest with the County Government.

Despite the above, Sections 99 to 101 of the Bill vest the powers of regulation of the water sector on the Water Services Regulatory Authority which is an agent of the national government. This not only contravenes the provisions of the Constitution with regard to devolution of services but also introduces potential conflict between national government and county governments.

For instance, sections 98 and 99 provide grant authority to the regulatory Authority to place WSPs under 'special regulatory regime'. This is the responsibility of the County Government whose mandate it is to provide services. The sections also give simultaneous mandate to the Regulatory Authority and to the County Government by donating to both power to take certain actions with regard to service provision. The reference to 'Regulatory Authority' in these sections should be removed.

Similarly, section 104 empowers the Regulatory Authority (national government) to issue orders to the County Government for implementation. This is contrary to the Constitution and the entire section should be deleted. The Constitution provides for the mode of engagement between the two levels of government in the event of dispute and the same should be observed in legislation.

In addition, section 77 seeks to limit WSPs to development of assets within a county. The restriction should be removed by deletion of the word 'county' to allow for counties to develop assets anywhere in the country in consultation with the National Land Commission and any other bodies as provided in the Constitution.

In summary, they recommended that the Bill be amended to provide that the national government should only be involved in development of policy guidelines/standards for the water sector and not micro-manage the affairs devolved to the county governments.

iii. Transitional provisions

Section 154(4) of the Bill provides for a transitional period of three years from commencement. The section should be amended to take cognizance of the fact that under Legal Notice No. 177 of 2013, water and sanitation services in Nairobi City County were transferred to the County Government of Nairobi in August 2013.

In addition, the section should be aligned with the Constitution which provides that the devolution of services shall be within three years after the first election.

iv. Conflict with existing laws

The Bill does not recognize or seek harmony with existing legislation on devolution which stipulates the manner of rendering services. For instance;

- a. the Cities and Urban Areas Act states, inter alia, that a city or municipality such as Nairobi shall be administered by a board, which is a body corporate. Section 20 deals with the functions of the board, which include to:
 - i. promote and undertake infrastructural development and services within the city or municipality;
 - ii. enter into contracts, partnerships, or joint ventures for the discharge of its functions;
 - iii. monitor and, where appropriate, regulate city and municipal services where those services are provided by service providers other than the board; and
 - iv. settle and implement tariff, rates, and tax and debt collection policies as delegated by the county government.

- b. Similarly, Part IV of the Urban Areas and Cities Act deals with the delivery of services and the board's powers in respect to the delivery of services. It restates the fact that the board shall, on behalf of the county government, deliver such services as may be specified. Specifically, it may:
 - i. establish operational sectors and service delivery entities for the efficient carrying out of its functions and the delivery of services within its area of jurisdiction;
 - ii. enter into partnership with a utility company either within or outside the county or internationally for the provision of social infrastructure services;
 - iii. jointly provide cross city and cross municipality services; and
 - iv. where it is of the opinion that the private sector is best able to provide a service, and with the approval of the county assembly, contract a private entity for purposes of delivering the services within its area of jurisdiction.

- c. The provisions above are buttressed in by the County Governments Act which also empowers the county government to:
 - i. "establish a company, firm or body ... or contract any person, company, firm, or other body for the delivery of a particular service;"
 - ii. enter into partnerships with any public or private organization for any work, service or function for which it is responsible within its area of jurisdiction; and
 - iii. acquire, purchase or lease land whether within or without its area of jurisdiction.

Thus, although a board may provide services, including water and sanitation services directly, it may also perform this function through a company with whom it has entered into a contract or, a joint venture or a public private partnership. Additionally, the board has regulatory functions, which include setting tariffs for the services provided.

The drafters of the Water Bill seem to have totally overlooked the above provisions in that the powers and functions of the County Government have been given to the Water Services Regulatory Authority. The Bill seems to impose the manner of providing services – through County water service providers - with no recognition of the fact that the County is at liberty to determine the most efficient mode of service delivery.

Also included among the powers and functions of the Regulatory Authority are other roles of the County Government including; validating tariffs for water and sewerage services (which violates article 185 of the Constitution and contradicts section 120 of the County Governments Act), issuing licences for provision of water services, developing model Articles & Memo of Association for service providers (see section 71 - which is also an infringement on the powers and mandate of the County Governments, the Companies Act and the County Governments Act), monitoring compliance with standards, proposing the extent and conditions of financial support to be accorded to water service providers, etc.

As will be noticed, these are essentially the roles that being undertaken by the Water Services Regulatory Board before devolution. The Bill seeks to entrench the position set out in the Water Act 2002 and which has been obtaining prior to the devolved system of government.

The Bill should be amended to be in harmony with the existing laws:-

v. Shareholder representation on the boards of water service providers

Section 78 provides that a member of a board of directors of a water service provider shall not:

- a) at the time of nomination for appointment to the board, be serving as an elected member of a county government;
- b) be a full time employee of a national or county government;
- c) hold office in a political party; or
- d) be a serving member of Parliament

The above implies that counties fully own WSPs but shall have no representation in their boards. , yet the constitutional mandate to provide those services rests with them.

They proposed that this section be amended to allow representation of county government representatives on the said boards. This is in line with the usual practice where Principal Secretaries represent the national government on all boards in which the national government has a stake.

vi. Membership and procedures of Boards and Committees

Section 9 of the first schedule of the Bill gives quorum required to transact business of boards/committees. We think that the requirement for a third of the members is on the lower side as water is an essential commodity and maximum stakeholder representation should be promoted at all times. We recommend a quorum of two thirds.

vii. Water resource management vs Regulation

It is noteworthy that the main challenge with regard to water is the inequitable distribution of this scarce resource. This being the case, the desirable situation would be that there would be greater emphasis/focus on the management of the resource rather in the regulation of its distribution as is the arrangement in the Bill. The proposal in the Bill is to have a weak Water Resources Regulatory Authority for the former and an over-arching Regulatory Authority for the latter.

viii. Preparation of the national water strategy

Would it not be appropriate that the counties be involved in the formulation of the national water strategy since they are the primary water services duty holders? This could also be an

aggregated strategy of all counties. A reference to this approach is made in 63 (5) but this is in respect of county integrated plans. There is need for the strategy to be developed in consultation with county governments and relevant stakeholders. The method of identifying the stakeholders and engaging with them can be spelt out in regulations.

ix. Provision of water to the under-privileged

In order to improve access to clean water for the under-privileged populations and in meeting the human right to water and sanitation guaranteed in the Constitution, there should be a provision requiring government to supply a certain minimum ration free of charge to these populations. The same should be subject to progressive realisation in recognition of resource constraints. The cost can be met through subsidy from national government through the Equalisation Fund.

x. Staff matters

While the Bill has addressed the fate of employees of the other institutions currently existing under the Water Act 2002, it has not provided for employees of existing WSPs. There is need for an explicit provision indicating that the employees shall be retained under the existing terms and conditions.

xi. Urban drainage

The issue of urban drainage should be addressed as this is part of water resource management.

Concerns of the Members of the Committee

Members of the committee were concerned on;

- What was the rationale used to come up with the institutions envisioned by the Bill;
- How the National Government and County Governments will cooperate;
- Who will regulate the shared water resources;
- Clarification of staff matters; and
- Water spillage (wastage) and how the bill addressed it

Reponses

- There is need to strengthen water resource management authority so that water is preserved and utilised well
- The role of the national government is apportionment of water resources through resource management authority and the County Government will develop an asset to distribute water.
- Water resource is a national government property. In case it's shared by more than one county, the national government will build a multipurpose dam from which it shall portion it among the counties.
- There is need for an explicit provision indicating that the employees shall be retained under the existing terms and conditions.
- The Bill is about regulation of waterresources and water wastage (spillage) shall be captured under the regulations.

MIN. NO. DC/ENR/197/2014 ANY OTHER BUSINESS

After deliberation members of Nairobi County Water Company were urged to come with proposed amendments and the rationale/justification of each amendment.

MIN. NO. DC/ENR/198/2014 ADJOURNMENT

There being no other business, the Meeting was adjourned at 4:30 pm to Tuesday 5th August, 2014 at 11.00 am to be held in the Commonwealth Parliamentary Room (C.P.A.)

SIGNED.....
(Handwritten signature)

CHAIRPERSON

DATE.....
4/9/2014

MINUTES OF THE 50TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY 22ND JULY, 2014 AT 11.00 AM IN THE C. P. A. ROOM, MAIN PARLIAMENT BUILDING.

PRESENT

1. Hon. Abdalla Amina, M.P. – Chairperson
2. Hon. Alexander Kosgey, M.P. – Vice Chairperson
3. Hon. Emaniker Joyce Akai, M.P.
4. Hon. Ganya Francis Chachu, M.P.
5. Hon. Ole Kenta Richard Moitalel, M.P.
6. Hon. Murungi Kathuri, M.P.
7. Hon. Dukicha Hassan Abdi, M.P.
8. Hon. Ndiritu Samuel Mathenge, M.P.
9. Hon. Ogalo George Oner, M.P.
10. Hon. Rop Jackson Kipkorir, M.P.
11. Hon. Tonui Ronald Kiprotich, M.P.
12. Hon. Jade Njomo, M.P.
13. Hon. Irea Gideon Mwiti, M.P.
14. Hon. Farah Abdulaziz Ali, M.P.
15. Hon. Sunjeev Kour Birdi, M.P.
16. Hon. Ottichilo Wilber Khasilwa, M.P.
17. Hon. Abdinoor Mohammed Ali, M.P.

ABSENT WITH APOLOGIES

1. Hon. No'ang'a Alice Wambui, M.P.
2. Hon. Dr. Wanyonyi Reginalda N. M.P.
3. Hon. Chidzuga Zainab Kalekye, M.P.
4. Hon. Wandayi James Opiyo, M.P.
5. Hon. Geni Charles Mong'are, M.P.
6. Hon. Peter Kinyua, M.P.
7. Hon. Muluvi Marcus Mutua, M.P.
8. Hon. Mohamed Diriye Abdullahi, M.P.
9. Hon. Barua Ejidius Njogu, M.P.
10. Hon. Gure Shukra Hussein, M.P.
11. Hon. Katana Aisha Jumwa, M.P.
12. Hon. Mwashetani Khatib, M.P.

IN-ATTENDANCE

1. Mr. Ahmad Kadhi – First Clerk Assistant
2. Ms. Naserian Lotuai – Third Clerk Assistant
3. Mr. Joshua Ondari – Third Clerk Assistant

MIN. NO. DC/ENR/188/2014 – PRELIMINARIES

The Chairperson called the meeting to order at 11:20 and a word of prayer was said.

MIN. NO. DC/ENR/189/2014 – CONSIDERATION OF THE WATER BILL, 2014

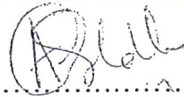
Members were welcomed to the sitting and notified of the Agenda of the day. The draft summary of the Water Bill, and an Analysis of the different provisions of the Water Act 2002 and the Water Bill 2014 was circulated to the Members present. After perusing through the documents, Members requested the Bill to be stepped down from the order paper so that to have more time with CIC Chairman, all heads of existing water authorities and the stakeholdersto address the following concerns;

- The background of the need for the legislative reform in the water sector and related policies;
- Contents of water Bill, 2014 vis-à-vis existing water act, 2002;
- Functions of the national and county governments;
- The justification of the various institutions as proposed by the Water Bill, 2014; and
- Best practices from elsewhere

MIN. NO. DC/ENR/190/2014 ADJOURNMENT

There being no other business meeting was adjourned to Thursday 24th July, 2014 at 11.00 am to be held in the Commonwealth Parliamentary Room (C.P.A.)

SIGNED.....



CHAIRPERSON

DATE.....

4/9/2014

