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REPUBLIC OF KENYA



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THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – SECOND SESSION – 2018

DEPARTMENTAL COMMITTEE ON ENERGY

REPORT ON PUBLIC PETITION BY RESIDENTS OF GARSEN CONSTITUENCY ON COMPENSATION OF FLOOD VICTIMS BY KENGEN

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| THE NATIONAL ASSEMBLY PAPERS LAID | |
| DATE: 05 DEC 2018 | DAY: THURSDAY |
| TABLED BY: Hon. Robert Fropose | |
| CLERK-AT-THE-TABLE: | For Chair, Energy Committee |

DIRECTORATE OF COMMITTEE SERVICES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

DECEMBER, 2018

ANNEXES

A. Copy of Petition

B. Committee minutes

C: Copies of Submissions/Evidence (Volume I and III)

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FOREWORD

The Petition was tabled before the House by Hon. Ali Wario on behalf of residents of Garsen Constituency in Tana River County. The Petition was referred to the Departmental Committee on Energy for consideration and processing.

The Petition seeks compensation for residents affected by floods that caused loss of lives and displacement of thousands, livestock, and destruction of farms who were left homeless.

The Petitioners aver that water released from KenGen dams along the up-stream part of the Tana River caused the river to flood and thus affected the residents along the Tana River basin and its lower areas occasioning damages and destruction and such other losses including loss of human lives.

In considering the Petition and in response to the Prayers therein, the Committee held various meetings with Hon Ali Wario on behalf of the petitioners, Ministry of Energy and management of KenGen and other stakeholders. The Committee also undertook a fact finding visits and met with various stakeholders including the residents affected by the floods along The Tana River.

The Committee appreciates the assistance provided by the Office of the Speaker and the Clerk of the National Assembly that enabled it to discharge its functions in considering and responding to the petition.

On behalf of the Committee, and pursuant to Standing Order, 227 it is my duty to table on the Floor of the House the Report of the Committee on the Petition.

Hon. Dr. Robert Pukose, MP

1.0 MANDATE OF THE COMMITTEE

The Departmental Committee on Energy derives its mandate from the provisions of Standing Order No. 216(5) which grants the Committee amongst other functions:

- a) To 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) To study the programme and policy objectives of ministries and departments and the effectiveness of their implementation;
- c) To study and review all legislation referred to it;
- d) To study, assess and analyze the relative success of the ministries and departments measured by the results obtained as compared with their stated objectives;
- e) To investigate and enquire into all matters relating to the assigned ministries and departments as may be deemed necessary, and as may be referred to it by the House; and
- f) To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation.

2.2 Further, the Second Schedule to the Standing Orders mandates the Committee consider matters relating to the following subjects Fossils fuel exploration, Development, production, maintenance and regulation of energy

2.3 In executing this mandate, the Committee oversees various State Departments, namely:

- i. The State Department of Energy ; and
- ii. The State Department of Petroleum.

2.0 MEMBERS OF THE COMMITTEE

The Committee comprises the following Members-

1. The Hon. David Gikaria, M.P. - **Chairperson**
2. The Hon. (Dr.) Robert Pukose, M.P. - **Vice Chairperson**
3. The Hon. Cecily Mbarire, M.P.
4. The Hon. Ekomwa Lomenen James, M.P.
5. The Hon. Joseph Wathigo Manje, M.P.
6. The Hon. Lemanken Aramat, M.P.
7. The Hon. Oscar Sudi, Kipchumba, M.P.
8. The Hon. (Eng.) Vincent Musyoka Musau, M.P.
9. The Hon. Amina Gedow Hassan, M.P.
10. The Hon. Abdikhaim Osman Mohamed, M.P.
11. The Hon. Clement Muturi Kigano, M.P.
12. The Hon. Elisha Odhiambo, MP
13. The Hon. Elsie Muhanda, MP
14. The Hon. Gitau Faith Wairimu, M.P.
15. The Hon. Julius Musili Mawathe, MP
16. The Hon. Ken Chonga, MP
17. The Hon. Tindi Nicholas Mwale, MP
18. The Hon. Walter Owino, MP
19. The Hon. Mohammed Ali Lokiro, MP

2.1 COMMITTEE SECRETARIAT

1. Mr Benjamin Magut - First Clerk Assistant–Lead Clerk
2. Mr Douglas Katho - Third Clerk Assistant
3. Ms Brigita Mati - Legal Counsel
4. Mr David Ngeno - Research Officer
5. Mr Abdi Gorod - Fiscal Analyst
6. Mr Joseph Okong'o - Media Relations Officer
7. Mr John Ng'ang'a - Audio Recording Officer
8. Ms Sheila Chebotibin - Sergeant at Arms

3.0 LIST OF RECOMMENDATIONS

Having considered the Petition and met the Petitioners and other stakeholders the Committee therefore recommends that:-

1. The Ministry of Energy and KenGen to engage the County governments of Tana River and Garissa and the Constituency leadership particularly the Members of Parliament with a view of compensating or working out modalities and framework for supporting the affected residents.
2. That, the National Disaster Management Unit to undertake special assessment relating to the floods experienced in Lower Tana and ascertain deaths relating to the floods witnessed in the month of March – April – May 2018 and submit findings to both the County governments of Garissa and TanaRiver and National Government by the end of the first (1st) quarter of 2019.
3. The Ministry of Energy to pursue plans towards raising Masinga Dam to create more storage for water, and to constructs more dams in the lower Kiambere and lower delta to contain/manage or delay severe flooding and mitigate against actions resulting from flash floods and in some instances from excessive spillage from large dams.
4. The National Land Commission in consultation with respective county governments and Members of Parliament and other leaders to identify communities and settlement prone to frequent floods for purposes of providing alternative resettlements as a way of providing sustainable solutions to perennial floods.
5. The Ministry of Energy, Management of KenGen, respective County and Regional Commissioners and National Disaster Management Unit in consultation with the respective County Governments to revise and enhance

the current framework around notifications, alerts and early warnings on dam operations that portend effects on river flows, excess rains in upper tana and impeding floods , among others, to residents and other stakeholders of Tana River basin both upstream and down-stream.

6. National Government to set aside funds and conditional allocations to Tana and Athi rivers Development Authority (**TARDA**) and **Ewaso Ng'iro North Development Authority (ENNDA)** for construction and rehabilitation of destroyed dykes, bridges and feeder roads in Garissa and Tana River counties.
7. That National Government through KENHA to fast-track the construction of Garissa - Hola- Garsen Road that was destroyed by the floods so as to improve both movement of people and economic activities. The Cabinet Secretary In-charge of State Department For Infrastructure to submit to National Assembly half yearly progress reports on the status of the road for the next 24 months starting from January 2019.
8. That the energy sector including KenGen, which relies on Tana river for hydrogeneration for the country, to set aside part of its CSR budget for purposes of empowering vulnerable communities in the downstream part of the Tana River basin and focus support on sustainable and innovative farming and fishing practices, resilience building, capacity building on early warning, notifications and mitigation measures, among others.
9. That part of the catchment preservation programmes under the Ministry of Energy be extended to the lower of Kiambere and lower areas of Tana river
10. NEMA and WARMA to undertake regular environmental audit and compliance review on KenGen dams including dam operations during

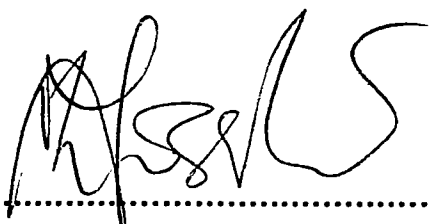
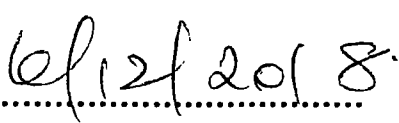
drought and rainy seasons with a view to ensure sustainable hydrogeneration that is cognizant of safety and wellbeing and livelihoods of residents around KenGen installations including large dams in the seven folks cascade and of other dams in the country. The first audit review and compliance to be submitted to the National Assembly and county governments of Garissa and Tana River County by the end of March 2019.

4.0 ACKNOWLEDGMENT

The Committee appreciates the assistance provided by the Office of the Speaker and the Clerk of the National Assembly that enabled it to discharge its functions in considering the Petition.

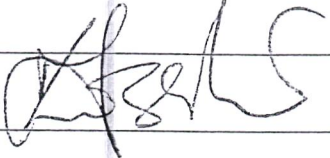


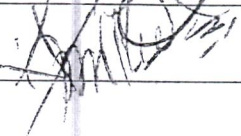
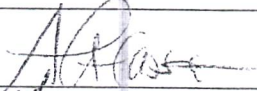

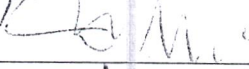
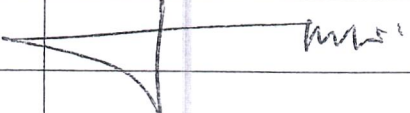

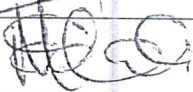
The Committee is also grateful to the various stakeholders and residents of the affected areas for appearing before it on various occasions and for the oral and written submission to the Committee.

On behalf of the Committee, and pursuant to Standing Order, 227 it is my humble duty to table the Report of the Committee on the Petition.

Sign..........Date..........

THE Hon. Dr. Robert Pukose, MP
VICE CHAIRPERSON, DEPARTMENTAL COMMITTEE ON ENERGY

ADOPTION LIST FOR COMMITTEE REPORT ON PUBLIC PETITION

| | NAMES | SIGNATURE |
|-----|---|---|
| 1. | Hon. David Gikaria , MP Chairperson | |
| 2. | Hon. (Dr) Robert Pukose , MP (Vice Chair) |  |
| 3. | Hon. Cecily Mbarire , MP | |
| 4. | Hon. Ekwoma Lomenen James , MP |  |
| 5. | Hon. Joseph Waithigo Manje ,MP |  |
| 6. | Hon. Lemanken Aramat, MP |  |
| 7. | Hon. Oscar Sudi Kipchumba , MP | |
| 8. | Hon. Vincent Musyoka Musau ,MP | |
| 9. | Hon. Amina Gedow Hassan ,MP |  |
| 10. | Hon. Abdikahim Osman Mohamed ,MP |  |
| 11. | Hon. Clement Muturi Kigano, MP |  |
| 12. | Hon. Elisha Odhiambo, MP |  |
| 13. | Hon. Elsie Muhanda, MP | |
| 14. | Hon. Gitau Faith Wairimu , MP | |
| 15. | Hon. Julius Musili Mawathe , MP | |
| 16. | Hon. Kern Chonga , MP |  |
| 17. | Hon. Mohamed Ali Lokiro , MP |  |
| 18. | Hon. Tindi Nicholas Mwale , MP | |
| 19. | Hon. Walter Owino ,MP | |

5.0 INTRODUCTION

The Petition was tabled before the House by Hon. Ali Wario on behalf of residents of Garsen Constituency in Tana River County. The Petition was referred to the Departmental Committee on Energy for consideration and processing.

The Petition seeks compensation for residents affected by floods that caused loss of human lives and livestock, destruction of farms and displacement of thousands of residents along the Tana River and its lower areas who were left homeless.

The petitioners aver that water released from KenGen dams located along the up-stream part of the Tana River caused the river to flood and thus affected the residents.

5.1 PRAYERS OF THE PETITION

Petitioners in their prayers seek that KenGen through its management takes responsibility and compensate residents for loss of lives, livestock, and destruction of farms and displacement of thousands who were left homeless. The petition also request that it should ensures that their plight is addressed as well as make any other order or direction that it deems fit in the circumstances of the matter.

6.0 SUBMISSIONS AND EVIDENCE

While considering the Petition, the Committee engaged several key stakeholders as well as undertook fact finding visits to the affected areas.

6.1 PRESENTATION BY THE PETITIONERS

On the 11th July, 2018 the Petitioners from Garsen constituency appeared before the Departmental Committee on Energy and made an oral submission with regard to the prayers contained in the Petition.

The Committee was informed that on the 24th April, 2018, KenGen released excess water without notice from Masinga Dam leading to massive flooding at the downstream thus affected livelihoods of the residents living along and the

lower areas of the River Tana. The floods led to loss of seven (7) lives and approximately one thousand and seventeen (1017) livestock.

In addition, the flooding has caused displacement of people from their homes and grazing lands; and that properties of unknown value were destroyed and lost on account of the flooding including destruction of five thousand and thirteen (5013) homes valued at close at Kshs 700 Million.

Very critical infrastructure such as roads and bridges have also been destroyed occasioning challenges in movement of people, supply of essential goods and services, access to basic facilities such as schools, markets and hospitals; and that several cases of widespread waterborne diseases such as cholera.

The Petitioners submitted that effort to put management of KenGen take responsibility for the gross negligence have proved unsuccessful and that, the matter in respect of which this Petition is made is not pending before any tribunal, court of law or constitutional body.

The Petitioners pray that:

- I. The National Assembly recommends that the management of KenGen takes responsibility for their negligence and compensate the affected residents for the losses
- II. ensures that their plight is addressed as well as make any other order or direction that it deems fit in the circumstances of the matter.

6.2 PRESENTATION BY MINISTRY OF ENERGY AND KENGEN

On the 7th August 2018 the Cabinet Secretary for the Ministry of Energy together with The Management of KenGen appeared before the Departmental Committee on Energy and made submissions with regard to the content and prayers in the Petition.

The Committee was informed that:

- ❖ The low lying areas of the Tana Basin have for many years experienced flooding as a result of higher than normal rainfall. Prior to 1970's when most of the hydro dams were built, the region of Garissa and its environs would receive widespread and destructive floods every few years, the worst being in 1961.
- ❖ That Construction of hydro dams has greatly improved the situation, since the dams have to fill up to full capacity before any flooding can occur. The largest dams are located in the Seven Forks Cascade, namely, Masinga, Kamburu, Gitaru, Kindaruma and Kiambere. This means that water flowing into Masinga is therefore held until the dam is full and the water is released to cascade through to Kiambere only through by the generating machines.
- ❖ However, the dams cannot hold or contain any more water beyond the full capacity where in such circumstances the excess water flow back to the river. That such action of allowing excess water is misunderstood to mean that KenGen opens its dams by releasing such water.
- ❖ That Kengen issued notification (24th April 2018) of excess spillage from Kiambere Dam due to heavy rains and floods from Mt. Kenya and Aberdare catchments which resulted in drastic rise of dam levels.
- ❖ KenGen as a responsible corporate citizen, through the provincial administration in the past and currently through State Department of Interior, send out alerts to communities living along riparian areas of the river to move to higher ground every time the dams attain full capacity with a view mitigate against possible destruction and loss that be caused by floods.

7.0 FIELD VISITS AND FINDINGS

The Committee undertook site visits in Tana River and Garissa County and held various meetings with affected residents with a view to observe and deduce the extent to which the residents were affected by the floods as indicated in the Petition.

The key stakeholders, who especially were involved in mitigation and restoring normalcy, were also in attendance during those meetings. They included:

- Local elected leaders (MPs and MCAs)
- Respective county commissioners office and representatives
- Red- Cross Representatives
- Local leaders, youth and women groups.

7.1 VISITS TO TANA RIVER COUNTY

1st Field Visit

The Committee held a total of 3 meetings between 9th and 11th August, 2018 and undertook various site visits to Minjila, Tarasa, Kipini and Gamba village. The Committee received submissions from the women and youth as well as persons with disability. During the visit to Tana-River County, the Committee observed and deduced the following that:

- ❖ Traditionally the people in the low-lying Tana-Delta are predominantly farmers
- ❖ Tana Delta is flat land prone to frequent floods and have devised ways to mitigating and controlling against effects of these flood.
- ❖ The communities had by way of early preparations and other contingent plans to control flooding and avoid excessive damages.
- ❖ The recent floods were massive and beyond their control
- ❖ The committee visited affected residents and who were staying in several camps and open areas due to displacement. Other areas with

similar camps and holding grounds such as Waldena, Wayu and Daba were inaccessible.

- ❖ The residents submitted on the possible value of the destroyed crops such as maize, green grams, watermelons, banana, tomatoes, bean and onion, cattle, sheep, goats as well as of other households items that were affected and destroyed by the floods.
- ❖ The Committee noted that road network was completely damaged including the dykes and most of the feeder roads leading to major markets and towns had been cut off which has affected the socio-economic activities and more so the fluctuation of food prices.
- ❖ The Committee noted that the dykes and related infrastructure were last constructed and maintained in 1978 by TARDA and were in dire state by the time of flooding.

2nd Field Visit

Tana River County

In the second visit by the Committee to Tana River County, it held a total of two (2) meetings and various site. The meetings were held in Hola town and later in Mororo. During this second visit, The Committee was informed and noted the following that:

- ❖ The meeting held in Hola town had representatives from the three sub counties, namely Tana Delta encompassing Garsen Constituency, Tana River encompassing Galole Constituency and Tana North encompassing Bura Constituency.
- ❖ Residents believe that the floods were caused by KenGen on account of its discretion by releasing excess water held in their upstream Dams without adequate and targeted warnings.
- ❖ The recent floods witnessed at the time were unprecedented both in terms of intensity, coverage and level of damage relative to past incidence including that of 1997/98 el-nino floods.

- ❖ The massive floods were witnessed during the month of April of 2018 thus bursting the banks of the river. The flooding happened at night causing extensive damage and destruction as affected residents were not aware and informed.
- ❖ Flooding affected farms and livestock, houses and dwellings, villages and social amenities such as schools, hospitals, roads and bridges.
- ❖ Since the flooding started various intervention from national and county governments as well as by different well-wishers offered various support and interventions to the affected communities. Some of the Government agencies include KenGen , Departments in charge of Special Programs, respective county and deputy county commissioners offices. Other key partners include World Vision, Action Against Hunger, various Media Houses, World Church Services, German Agro Action, IoM , Kenya Red Cross Society, among others.
- ❖ The flooding affected both land and river ecosystem related habitat displacing land animals and aquatic animals exacerbating human wildlife conflict. Most affected aquatic animals include hippopotamus, snakes , crocodiles and snails.
- ❖ Floods affected the entire county residents living along the river and including residents reasonably far from the river and *far into the plains*
- ❖ The floods damaged the Garissa - Hola- Garsen Road, such that the road is in dire state of disrepair thus increasing travel time and curtailing emergencies and rescue efforts.
- ❖ Alerts on floods were neither communicated properly or came late in some areas such as Mororo and part of Garissa town.
- ❖ Communities around the river and other low lands prone to vagaries of floods should be moved and given alternative settlement.
- ❖ There is need for checks and balances regarding use of upper Tana including commercial activities such as generation, construction of dams , conservation or lack of it while taking into account the interest,

livelihood and other attendant effects and impact such use or activities will have on the downstream residents.

- ❖ The various responses conducted by Kenya Red Cross Society in mitigating the effect of the floods were inform of evacuation, search and rescue; assessment and registration; distribution of Non Food Items, psychosocial support ,shelter assessment , among others. That on the same account the response reached a total of 121 camps and villages, 14,783 households and 81,911 people across the three sub counties.

Garissa County

The Committee made visits to Garissa town, and parts of Garissa County bordering the river where residents are both farmers and pastoralist. The Committee held two meetings with the residents of Nanighi, and Kamuthe of the larger Fafi constituency who are farmers and pastoralist who live along the Tana. The Committee also undertook several on spot site visits to some affected areas with a view to ascertain impact of the floods.

Based on deliberations and site visits, The Committee was informed and noted the following that:

- 1) The residents aver that the floods were as a result of Kengen activities where the Company release excess water from their dams without due care and diligence to downstream users.
- 2) The residents witnessed unprecedented change to the river natural flow regime on account of unusual flood levels. And due to that change of course, location and size of some farms were affected.
- 3) The massive floods were witnessed during the month of April of 2018 thus bursting the banks of the river. The flooding happened at night causing extensive damage and destruction.
- 4) There was no awareness or alerts on impending floods to would-be affected residents and there was none in the past.
- 5) The floods affected matured farm trees and damaged various crops.

- 6) Various crops that were ready for harvest were either damaged or destroyed as a result of the severe floods. Consequently, this has occasioned losses and resulted into other social and economic hardships such as falling short to honour their bills, payment of school fees, etc
- 7) Most farms areas such as Nanighi and Kamuthe are owned through cooperative or social welfare groups/associations involving vulnerable women and youth. And that the loss occasioned by the floods negatively affected their savings and investments contributed over years.
- 8) Farms inputs and machinery such as engines and piping systems for purposes of pumping water for irrigation were damaged and swept away¹. Other farm infrastructure such as dykes and irrigation *cannel* were also affected with silts deposited in most farms.
- 9) Due to climate change and vagaries of weather in Garissa town has resulted in dwindling fortunes under pastoralism way of life. Consequently, most resident have turned to farming with support from various National and county government agencies as well as NGOs to learn and enhance skills in farming. However, most resident farmers witnessed livelihoods disruption due to constant floods and mores so the recent massive flooding thus impacting negatively to sustainable farming.
- 10) Most residents houses in Garissa town and shopping outlets were submerged in the flood waters, damaging household goods, buildings and merchandise, among others.
- 11) There are few supports to bring back normalcy by several actors such as the county commissioners and other agencies from National and County governments and NGOs.

¹ Volume II

8.0 OBSERVATIONS AND KEY FINDINGS

The Committee made the following observations from various deliberations and evidence adduced during the various meetings and engagements as well as findings from the field visits. They include:

- 1) That, on account of weather reviews the Committee noted that there were floods between the months of March – April - May of 2018. However, there were massive floods witnessed in the month of April 2018 thus affected residents of Garsen in Tana Delta including Garsen Constituency as well as other residents in other sub-counties such as Tana River sub county including Galole Constituency and Tana North sub county including Bura constituency.
- 2) That, the floods also affected residents in Garissa county especially in Garissa town, parts of Fafi and Balambala constituencies that live along the river and in the low land areas.
- 3) That, KenGen issued notification relating to excessive spillage of water from Kiambere Dam on 24th April 2018 due to heavy rains and floods from Mt. Kenya and Aberdare catchments which resulted in drastic rise of the dam levels.
- 4) That, spillage of excess water was taking place during the period of notification and alerts detailing on the impact or impending increase in river flows
- 5) A review of the notifications , including past notifications such as that of 1st of May 2016, indicate that alerts are issued to county government of Tana River and Garissa detailing water levels of dams and the impact of excessive spillage or imminent spillage.
- 6) That, its noted that the notifications and alerts are informed by rise of water levels depending on what obtains either during few days before or within a day or by the hours and due to actions being taken such as spillage of water. (see letter in Volume II)

- 7) That, the April floods occasioned widespread destruction and damage to farms, household goods, property and buildings, livestock and other animals. Damage to farms include silt deposits, damaged crops, washed away part of the farm and uprooted trees and damaged fencing, among others.
- 8) That, the floods also affected the state of social infrastructure such as schools, hospitals and markets mainly on the low lands.
- 9) That, based on submissions, some residents lost their lives. In addition many were affected by diseases caused by lack of adequate sanitation and overcrowding in temporary shelter camps and social facilities. There were also reported deaths of babies as well as medical complications to mothers during the said period.
- 10) That, the floods substantially damaged the Garissa - Hola- Garsen Road where the gushing water also destroyed culverts and bridges and crossing points leaving huge gullies thus affecting supplies and rescue efforts as well as general economic activities.
- 11) That, the state of feeder roads both in Tana River and Garissa counties were also affected and damaged.
- 13) The Committee noted that most residents - on account of their submissions - were not aware of any alerts or warnings issued. Moreover, there was no evidence of coordinated and effective approach to inform residents in the downstream of Kiambere and others parts and areas along the river of any dangers including possible floods or other dangers the river may portend to their activities and livelihoods.
- 14) That, reliable generation of hydro-power in the country through through the dams located in the upper Tana. Some of the largest dams in the seven folks cascade are Masinga, Kamburu, Gitaru, Kindaruma and Kiambere.
- 15) That, communities living along the Tana river basin in Tana River and Garissa County have little awareness and information about upstream

activities such as generation of power and its operations, conservation or lack of it and other related activities.

- 16) That, floods are perennial challenges to the people in Tana River and Garissa counties without any sustainable solutions currently in place.
- 17) That, there are plans to raising of masinga dam levels to create more storage and construction of more dams downstream of Kiambere with view to mitigating against floods or delaying effects of severe flooding.
- 18) That, there also plans for continuous and dedicated catchment preservations and reduce risks associated with floods occasioned by flash floods and reduce sediments load that affect dam storage capacity
- 19) The Committee noted that many residents live along the tana basin especially in the low land areas in the downstream that require support towards alternative settlement to avoid future calamities.
- 20) The Committee noted that the dykes and related infrastructure were last constructed and maintained in 1978 by TARDA and were in dire state by the time of flooding.
- 21) That, there were interventions and adhoc efforts made so far to restore livelihoods and assist affected and vulnerable residents by government agencies including county governments in the affected areas , KenGen and other well-wishers.

9.0 RECOMMENDATIONS

In response to the prayers by the petitioners, the Committee recommends that:

- 1) The Ministry of Energy and KenGen to engage the county governments of Tana River and Garissa and the constituency leadership particularly the Members of Parliament with a view of compensating or working out modalities and framework for supporting the affected residents.
- 2) That the disaster management unit to undertake special assessment relating to the floods experienced in lower tana and ascertain deaths relating to the floods witnessed in the month of March – April – May 2018 and submit findings to both the County governments of Garissa and TanaRiver and National Government by the end of the 1st quarter of 2019.
- 3) The Ministry of Energy to pursue plans towards raising Masinga Dam to create more storage for water, and to constructs more dams in the lower Kiambere and lower delta to contain/manage or delay severe flooding and mitigate against actions resulting from flash floods and in some instances from excessive spillage from large dams.
- 4) The National Land Commission in consultation with respective county governments and Members of Parliament and other leaders to identify communities and settlement prone to frequent floods for purposes of providing alternative resettlements as a way of providing sustainable solutions to perennial floods.
- 5) The ministry of Energy, and Management of KenGen, respective County and Regional Commissioners, Disaster Management Unit and WARMA

in consultation with the respective County Governments to revise and enhance the current framework around notifications, alerts and early warnings on dam operations that portend effects on river flows, excess rains in upper tana and impeding floods , among others, to residents and other stakeholders of Tana River basin both upstream and down-stream.

- 6) National Government to set aside funds and conditional allocations to Tana and Athi rivers Development Authority (**TARDA**) and **Ewaso Ng'iro North Development Authority (ENNDA)** for construction and rehabilitation of destroyed dykes, bridges and feeder roads in Garissa and Tana River counties.
- 7) That National Government through KENHA to fast-track the construction of Garissa - Hola- Garsen Road that was destroyed by the floods so as to improve both movement of people and economic activities. The Cabinet Secretary In-charge of State Department For Infrastructure to submit to National Assembly half yearly progress reports on the status of the road for the next 24 months starting from January 2019.
- 8) That the energy sector including KenGen, which relies on Tana river for hydrogeneration for the country, to set aside part of its CSR budget for purposes of empowering vulnerable communities in the downstream part of the Tana River basin and focus support on sustainable and innovative farming and fishing practices, resilience building, capacity building on early warning, notifications and mitigation measures, among others.
- 9) That part of the catchment preservation programmes under the ministry of energy be extended to the lower of kiambere and lower areas of Tanariver

10) NEMA and WARMA to undertake regular environmental audit and compliance review on KenGen dams including dam operations during drought and rainy seasons with a view to ensure sustainable hydrogeneration that is cognizant of safety and wellbeing and livelihoods of residents around KenGen installations including large dams in the seven folks cascade and of other dams in the country. The first audit review and compliance to be submitted to the National Assembly and county governments of Garissa and Tana River County by the end of March 2019.

REPUBLIC OF KENYA



TWELFTH PARLIAMENT
THE NATIONAL ASSEMBLY
(SECOND SESSION)

PUBLIC PETITION

BY RESIDENTS OF GARSEN CONSTITUENCY ON COMPENSATION
OF FLOOD VICTIMS BY KENGEN

Approved
SNA
26/6/18

Petition presented by
the Hon. Ali Waini Gogo
27.6.2018

Handwritten notes:
Hon. Waini Gogo
27/6/18
26/6/18

I, the UNDERSIGNED, on behalf of residents of Garsen Constituency;

DRAW the attention of the House to the following: -

- 1) THAT, on 24th April, 2018, KenGen released excess water from their Masinga dam leading massive flooding downstream;
- 2) THAT, the water which was released without adequate notice, has affected the livelihoods of the residents living along and lower areas of the River Tana;
- 3) THAT, the floods have led to lose of seven (7) lives and approximately one thousand and seventeen (1017) livestock. In addition, the flooding has caused displacement of people from their homes and grazing lands;
- 4) THAT, properties of unknown value have been lost as a result of the said flooding including destruction of five hundred and thirteen (513) homes valued at close to ~~Two Hundred and Five~~ ^{Seven Hundred and one} ~~(205,000,000)~~ ^{701,820,000} million Kenya shillings;
- 5) THAT; critical physical infrastructure such as roads and bridges have also been destroyed leading to severe challenges in movement of people, goods and services including access to basic facilities such as schools, markets and hospitals;
- 6) THAT; several cases of waterborne diseases such cholera have been experienced among the residents as result of the floods;

Handwritten notes:
5043
Mato

PUBLIC PETITION
BY RESIDENTS OF GARSEN CONSTITUENCY ON COMPENSATION OF
FLOOD VICTIMS BY KENGEN

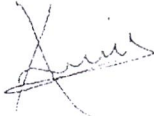
- 7) THAT, efforts to have the management of KenGen take responsibility for this gross negligence have proved futile; and
- 8) THAT, the matter in respect of which this petition is made is not pending before any tribunal, court of law or constitutional body.

THEREFORE your humble Petitioners pray that the National Assembly, through the Departmental Committee on Energy:

- (i) Recommends that the management of KenGen takes responsibility for their negligence and compensate the affected residents for the losses;
- (ii) Ensures that the Petitioners' plight is addressed; and
- (iii) Makes any other order or direction that it deems fit in the circumstances of the matter.

And your PETITIONERS will ever pray.

PRESENTED BY



THE HON. ALI WARIO, MP
MEMBER FOR GARSEN CONSTITUENCY

DATE 26/6/2018

MINUTES OF THE 105TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD DURING THE REPORT-WRITING RETREAT IN GRAND ROYAL HOTEL IN KISUMU ON SATURDAY 1ST DECEMBER, 2018 AT 10.00 AM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
3. The Hon. Elisha Odhiambo, MP
4. The Hon. Ken Chonga, MP
5. The Hon. Amina Gedow Hassan, M.P
6. The Hon. Abdikhaim Osman Mohamed, M.P
7. The Hon. Clement Muturi Kigano, M.P.
8. The Hon. Tindi Nicholas Mwale, MP
9. The Hon. Joseph Wathigo Manje, M.P.
10. The Hon. Oscar Sudi, Kipchumba, M.P.
11. The Hon. Walter Owino, MP

ABSENT WITH APOLOGY

1. The Hon. Cecily Mbarire, M.P.
2. The Hon. Lemanken Aramat, M.P.
3. The Hon. Elsie Muhanda, MP
4. The Hon. Julius Musili Mawathe, MP
5. The Hon. Gitau Faith Wairimu, M.P.
6. The Hon. Ekomwa Lomenen James, M.P.
7. The Hon. Vincent Musyoka Musau, M.P.
8. The Hon. Mohammed Ali Lokiro, MP

IN ATTENDANCE: NATIONAL ASSEMBLY

1. Mr. Benjamin Magut - Clerk assistant I (Lead Clerk)
2. Mr. Douglas Katho - Clerk Assistant III
3. Mr. Abdirahman Gorod- Fiscal Analyst
4. Mr. John Ng'ang'a - Audio Officer

MIN. NO. NA/ENERGY/2018/380: PRELIMINARIES AND INTRODUCTORY REMARKS

The meeting was called to order at 10am and prayers were said by the session Chairperson. The Chairman informed the meeting that the Committee had retreated to consider a number of reports pending before the Committee.

MIN. NO. NA/ENERGY/2018/381: CONSIDERATION AND ADOPTION OF THE DRAFT REPORT ON THE PUBLIC PETITION BY HON. ALI WARIO GUYO, MP (GARSEN CONSTITUENCY) ON BEHALF OF THE RESIDENTS OF GARSEN

REGARDING COMPENSATION FOR THE FLOOD
VICTIMS BY KENYA ELECTRICITY GENERATING
COMPANY (KENGEN)

The Committee Members were taken through the draft report of the Committee on a Public petition by Hon. Ali Wario Guyo, MP (Garsen Constituency) on behalf of the residents of Garsen regarding compensation for the flood victims by Kenya Electricity Generating Company (KENGEN)

The Committee thereafter unanimously adopted the Report and agreed that the Report be tabled before the House does on recess on the 6th December, 2018.

MIN. NO. NA/ENERGY/2018/382: CONSIDERATION AND ADOPTION OF THE DRAFT REPORT ON THE PUBLIC PETITION BY OIL MARKETERS REGARDING LICENSING OF OIL MARKETERS.

The members were taken through the draft report of the committee on the Public petition by Oil Marketers regarding licensing of Oil Marketers.

The Committee thereafter postponed its adoption to next week.

MIN. NO. NA/ENERGY/2018/383: ANY OTHER BUSINESS AND ADJOURNMENT

There being no Other Business, the meeting was adjourned.

SIGNED.....


(CHAIRPERSON)

DATE.....

6/12/2018