

Enhancing Accountability

REPORT

OF

THE AUDITOR-GENERAL

ON

**REVENUE STATEMENTS OF THE
STATE DEPARTMENT FOR MINING**

**FOR THE YEAR ENDED
30 JUNE, 2021**

THE NATIONAL ASSEMBLY
PAPERS LAIN

DATE: 22 MAR 2022 DAY: TUESDAY

TABLED BY:	MAJORITY LEADER
CLERK AT THE TABLE:	

OFFICE OF THE AUDITOR GENERAL
P. O. Box 30084 - 00100, NAIROBI
REGISTRY

17 FEB 2022

RECEIVED



**RECEIVER OF REVENUE
STATE DEPARTMENT FOR MINING**

REVENUE STATEMENTS

**FOR THE FINANCIAL YEAR ENDED
JUNE 30, 2021**

**Prepared in accordance with the Cash Basis of Accounting Method under the International
Public Sector Accounting Standards (IPSAS)**

**RECEIVER OF REVENUE – (State Department for Mining)
REVENUE STATEMENTS
FOR THE YEAR ENDED JUNE 30, 2021**

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**RECEIVER OF REVENUE – (State Department for Mining)
REVENUE STATEMENTS
FOR THE YEAR ENDED JUNE 30, 2021**

KEY INFORMATION AND MANAGEMENT

(a) Background information

The Receiver of Revenue is under the State Department for Mining, Ministry of Petroleum and Mining. At the cabinet-level, the Receiver of Revenue is represented by the Cabinet Secretary for Petroleum and Mining, who is responsible for the general policy and strategic direction of the receiver of revenue. The receiver of revenue was appointed as a receiver on 1st July 2016

(b) Principal activities

The receiver of revenue collects Revenue from Mining Royalties, Fees, and Licenses. Revenue collected is received and remitted to the National Treasury.

(c) Key Management

The State department's key personnel management holding office during the financial year ending 30th June 2021 are:

No.	NAME	DESIGNATION
1.	Hon. John Munyes	Cabinet Secretary
2.	Mr Andrew Kamau	Principal secretary
3.	Mr Benjamin Oyile	Director Administration
4.	Mr Raymond Mutiso	Director of Mines
5.	Mr Charles Maina	Senior Chief Finance Officer
6.	Mr Isaac Mutungi	Head of Supplies Chain and management
7.	Mrs Bernard Orina	Head of Human Resource Management
8.	Mrs Jackline Muinamia	Head of Internal Audit
9.	Mr Appolo Muchilwa	Head ICT
10.	Mr Charles Nyaga	Head Accounting Unit

RECEIVER OF REVENUE – (State Department for Mining)
REVENUE STATEMENTS
FOR THE YEAR ENDED JUNE 30, 2021

(d) Entity Headquarters

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(f) Independent Auditors

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(g) Principal Legal Adviser

The Attorney General
State Law Office
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Nairobi, Kenya

(h) Bankers

Central Bank of Kenya
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**RECEIVER OF REVENUE – (State Department for Mining)
REVENUE STATEMENTS
FOR THE YEAR ENDED JUNE 30, 2021**

STATEMENT OF RECEIVER OF REVENUE'S RESPONSIBILITIES

Section 82 (1) of the Public Finance Management Act, 2012 requires that, at the end of each financial year, a receiver of revenue shall prepare an account of the revenue received and collected by that receiver during that financial year.

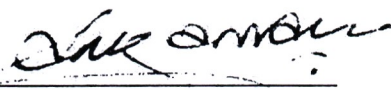
The Principal Secretary in charge of the state department for Mining is responsible for the preparation and presentation of the *receiver of revenue account*, which gives a true and fair view of the state of affairs of the *receiver of revenue* for and as at the end of the financial year (period) ended on June 30, 2021. This responsibility includes: (i) maintaining adequate financial management arrangements and ensuring that these continue to be effective throughout the reporting period; (ii) maintaining proper accounting records, which disclose with reasonable accuracy at any time the financial position of the entity; (iii) designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements, and ensuring that they are free from material misstatements, whether due to error or fraud; (iv) safeguarding the assets of the *entity*; (v) selecting and applying appropriate accounting policies; and (vi) making accounting estimates that are reasonable in the circumstances.

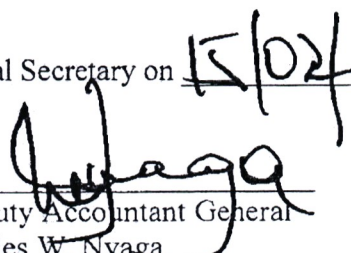
The Principal Secretary in charge of the state department for Mining accepts responsibility for the *entity's receiver of revenue* accounts, which have been prepared on the Cash Basis Method of Financial Reporting, using appropriate accounting policies in accordance with International Public Sector Accounting Standards (IPSAS) and relevant legal framework of the Government of Kenya. The Principal Secretary is of the opinion that the *entity's receiver of revenue* account gives a true and fair view of the state of *entity's receiver of revenue* transactions during the financial year ended June 30, 2021, and of the *entity's* financial position as at that date. The Principal Secretary charge of the state department for Mining further confirms the completeness of the accounting records maintained for the *receiver of revenue*, which has been relied upon in the preparation of the *receiver of revenue* account as well as the adequacy of the systems of internal financial control.

The Principal Secretary in charge of the state department for Mining confirms that the entity has complied fully with applicable Government Regulations and the terms of external financing covenants (where applicable), and that the entity's funds received during the year under audit were used for the eligible purposes for which they were intended and were properly accounted for. Further, the Principal Secretary confirms that the *receiver of revenue's* accounts has been prepared in a form that complies with relevant accounting standards prescribed by the Public Sector Accounting Standards Board of Kenya.

Approval of the Revenue Statements

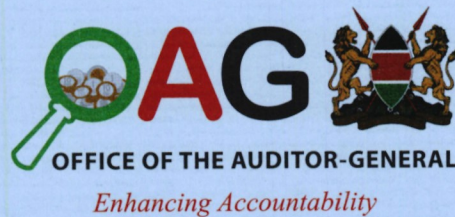
The *Revenue* statements were approved and signed by the Principal Secretary on 15/02 2022


Principal Secretary
Andrew N. Kamau C.B.S


Deputy Accountant General
Charles W. Nyaga
ICPAK Member Number: 11093

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REPORT OF THE AUDITOR-GENERAL ON REVENUE STATEMENTS OF THE STATE DEPARTMENT FOR MINING FOR THE YEAR ENDED 30 JUNE, 2021

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

- A. Report on the Revenue Statements that considers whether the revenue statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.
- B. Report on Lawfulness and Effectiveness in Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazetted notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure Government achieves value for money and that such funds are applied for intended purpose.
- C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, the risk management environment, and the internal controls developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations, and that its internal controls, risk management and governance systems are properly designed and were working effectively in the financial year under review.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided by Article 229 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015. The three parts of the report, when read together constitute the report of the Auditor-General.

REPORT ON THE REVENUE STATEMENTS

Qualified Opinion

I have audited the accompanying revenue statements of the State Department for Mining set out on pages 7 to 20, which comprise the statement of arrears of revenue as at 30 June, 2021, statement of receipts and disbursements and the statement of

comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the revenue statements present fairly, in all material respects, the arrears of revenue of the State Department for Mining as at 30 June, 2021, and the revenue performance for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with the Public Finance Management Act, 2012 and the Mining Act, 2016.

Basis for Qualified Opinion

1. Unsupported Non-Tax Receipts

The statement of receipts and disbursements for the year ended 30 June, 2021 reflect an amount Kshs.1,843,684,919 as total non-tax receipts. The receipts comprise of revenue collected from cement levy, mining royalties and licence and permits fees from various licensees. Section 191 of the Mining Act, 2016 provides for establishment and maintenance of an up to date computerized mining cadastre and registry system, including a register of mineral rights.

Review of records at the State Department revealed that the cadastre system was maintained. However, there was no register of mineral rights or records of licences issued for each category. Due to the unavailability of these records, the reported receipts in respect of mining and exploration licences, export permits and mining royalties from various licensees could not be verified against any supporting records.

Under the circumstances, the accuracy, validity, and completeness of the total non-tax receipts amounting to Kshs.1,843,684,919 for the year ended 30 June, 2021 could not be confirmed.

2. Unreported and Unauthorized Use of Prospecting Fees

The Cabinet Secretary, The National Treasury designated the Principal Secretary of State Department for Mining as a receiver of revenue through a letter REF:AG.1/021 Vol.111/91 dated 24 July, 2020. The letter classified classes of revenue for collection and to be accounted for by the receiver of revenue, which included prospecting fees among others.

The revenue statements for the year ended 30 June, 2021 did not include prospecting fees revenue or arrears in the class of revenue. A review of accounting records at the State Department revealed prospecting fees amounting to Kshs.25,048,358 was collected and deposited into the Department's recurrent bank account where it was utilized as Appropriation in Aid (AIA) without approval of the Cabinet Secretary for National Treasury. This was contrary to Regulation 64(4) of the Public Finance Management (National Government) Regulations, 2015 which provides that moneys received by the receiver of revenue shall be paid into the designated bank accounts of the National Government and is not to be used by any public officer.

Consequently, the accuracy of the nil balance on prospecting fees in the revenue statements for the year under review could not be confirmed. In addition, the Management is in breach of the law.

3. Unreported Cement Levy Arrears by East Africa Portland Cement Company

The statement of arrears of revenue as at 30 June, 2021 reflects cement levy arrears totalling Kshs.2,115,612,977 owed by various companies. Included in the balance, is Kshs.404,759,572 owed by East Africa Portland Cement Company (EAPCC) which accrued in the financial years 2014/2015 to 2020/2021. Further, the Company has since 2018/2019 filed incomplete self-declaration assessments and was therefore, not assessed for cement levy from 2018/2019 to 2020/2021 financial years. Management did not provide any explanation on why levies that were due and chargeable to the Company were not assessed in the relevant periods and reported in the financial statements.

Under the circumstances, the recoverability and accuracy of the Kshs.404,759,572 as at 30 June, 2021 could not be ascertained.

4. Long Outstanding Arrears from Savanna Cement Company

Included in the arrears of revenue of Kshs.2,115,612,977 is Kshs.370,862,635 due from Savanna Cement Company in respect of cement minerals levy as at 30 June, 2021. Although a payment plan agreement was signed in August, 2017 between the State Department and the Company requiring settlement of the arrears in twenty-four (24) monthly instalments starting from September, 2017, the Company had reneged on the plan stating that it did not hold a mineral license from the State Department and therefore was not liable to pay the levy. The Company had also moved to the High Court challenging Legal Notice No.222 of 2013 which required payment of cement minerals levy by all cement producing companies in Kenya. Although Management indicated that a consent has been recorded in Court for settlement of the matter, the same was not provided for audit review.

Further, the Company has not filed any self-declaration assessment since 2018/2019 financial year to the time of the audit in February, 2022 and has, therefore, not been assessed for cement levy. In addition, the Company remitted Kshs.5,000,000 during the year, but the remittance was not supported by production and sales reports.

Under the circumstances, the recoverability of the Kshs.370,862,635 as at 30 June, 2021 could not be confirmed.

5. Long Outstanding Dues from Tata Chemicals Magadi Limited

The statement of arrears of revenue as at 30 June, 2021 reflects royalty arrears totalling Kshs.675,023,295 owed by Tata Chemicals Magadi Limited which has accrued since the financial year 2015/2016. Although the Company undertook to settle the arrears with the State Department, no significant progress was made during the year.

Further, review of correspondences between the Company and the State Department revealed that the Company had cited serious operational and financial challenges as the reason for inability to pay the royalties at the gazetted rates. The Company Management proposed to pay negotiated rate of 3% and to be applied retrospectively

from 01 July, 2017. However, the Ministry of Petroleum and Mining asserts on application of the gazetted rates of 4% of gross sales value from 1 July, 2017 and 5% of gross sales value from 01 July, 2019. The Company has not proposed any payment plan to settle the accrued royalties.

Consequently, the recoverability of the arrears of revenue of Kshs.675,023,295 as at 30 June, 2022 could not be confirmed.

6. Unreported and Long Outstanding Dues from Carbacid (CO2) Limited

The statement of arrears of revenue reflects arrears of revenue of Kshs.78,490,587 due from Carbacid (CO2) Limited. The arrears relate to the financial years 2017/2018 to 2020/2021. However, a review of correspondences revealed that the Company Management had expressed reservations regarding payment of the royalties before a consensus on payment rates was reached. In addition, the Company did not file a self-declaration assessment and was, therefore, not assessed for royalties due in the year under review.

Consequently, the recoverability of the arrears of revenue of Kshs.78,490,587 as at 30 June, 2022 could not be confirmed.

7. Unremitted Mining Royalties

The statement of arrears in revenue for the year under review includes outstanding mining royalties totalling Kshs.47,717,596. The royalty arrears comprise of Kshs.30,196,739 and Kshs.17,520,857 accruing from Kilimapesa Gold Pty Limited and Africa Diatomite Industries Limited respectively. Management did not provide evidence of any efforts made to recover the arrears of revenue. Further, a review of records maintained by the State Department revealed that, declared and assessed sales records in respect of Kilimapesa Gold Pty Limited were not up to date and thus the royalty arrears could not be accurately estimated.

In addition, a review of Cadastre records revealed that Chauhshan International Mining Company was granted a license to mine diatomite in 2016. However, no documents were provided for audit review to confirm the validity and the status of the mining license since 2016. Further, it was not clear whether the company pays ground rent for the rights held.

In the circumstances the accuracy and recoverability of the royalty arrears of Kshs.47,717,596 as at 30 June, 2021 could not be confirmed.

8. Irregular Underpayment of Cement Levy by National Cement Limited

The statement of receipts and disbursements for the year under review reflects cement levy receipts amounting to Kshs.882,501,151. The receipts include Kshs.289,263,087 received from National Cement Company as shown in Note 1 to the revenue statement. However, analysis of production reports from the Company revealed a variance of Kshs.51,181,322 between cement levy remitted to Ministry of Petroleum and Mining and the levy due on production as shown below:

Period	Production in Tons Kshs.	Rate Used Kshs.	Royalty as per Reports Kshs.	Royalty Payable at 140/Ton Kshs.	Variances Kshs.
July, 2020 - March, 2021	2,041,514	127.54827	260,391,587	285,811,960	25,420,373
April, 2021 - June, 2021	644,024.11	100	64,402,411	90,163,360	25,760,949
				Total	51,181,322

Further, review of records at the State Department in respect of the cement Company revealed that on 4 March, 2021, the Cabinet Secretary through a letter Ref: No. MOPM/(S)6/1 granted consent to the Company to pay a reduced cement levy at a rate Kshs.100 per tonne instead of Kshs.140 per tonne. However, Section 188(2) of the Mining Act, 2016 requires the Cabinet Secretary to make regulations to provide for the conditions and criteria for determining application for reduction or suspension of payment of royalties which had not been done at the time of granting the reduction and have also not been done by the time of the audit in February, 2022.

In addition, there was no evidence of gazettment of the revised cement levy rate as provided for in the Section 183(2) of the Mining Act, 2016. In addition, it was not clear why the reduced levy rate of Kshs.100 applied only to one Company while the sector had several players manufacturing the same product.

In the circumstance, the accuracy of the Kshs.289,263,087 on levy receipts for the year under review could not be confirmed. In addition, the Management is in breach of the law.

9. Failure to Collect Annual Ground Rents

The Mining (Amendment of Third Schedule) Order, 2014 provides for payment of annual ground rents for an exclusive prospective licence or special licence, and annual ground rent for a lease area per hectare. A review of mining cadastral records maintained by the State Department revealed that the receiver of revenue failed to identify and collect annual ground rents payable by holders of exclusive prospecting licence, mining permit, prospecting permit and mining licence amounting to Kshs.133,335,448 contrary to Section 182(1) of the Mining Act, 2016 which provides that an applicant or a holder of a mineral right, a mineral dealer's licence or a diamond dealer's licence, shall pay such fees or charges and at such time as may be prescribed, by notice in the gazette.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the State Department for Mining Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of revenue statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the revenue statements. There were no key audit matters to report in the year under review.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in use of Public Resources, I confirm that nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1. Dealing in Minerals Without Valid Licenses

A review of the mining cadastral records maintained by the State Department for Mining revealed that East Africa Portland Cement Company (EAPCC) and Savanna Cement Company had not been issued with mineral dealer's licences or mineral dealer's permit. However, the companies continued to undertake mining activities and deal in minerals without valid licenses or permits contrary to Section 159 of the Mining Act, 2016.

Management explained that Savannah Cement Company do not undertake mining activities but instead imports the clinker, the main ingredient for cement manufacturing. However, cement manufacturing involves mixing clinker with other minerals such as Gypsum and Pozzolona among others. The additive minerals are sourced locally, and a request to the Company to disclose the suppliers of the other minerals was not responded to.

Consequently, the Management is in breach of the law.

2. Failure to Share Royalties and Lack of Mechanism for Sharing Royalties

Section 183(5) of the Mining Act, 2016 requires royalties paid by a holder of mineral right to be distributed as follows: seventy percent (70%) to the National Government, twenty percent (20%) to the County Government and ten percent (10%) to the Community where the mining operations occur.

During five financial years following enactment of the Act, of 2016, a total of Kshs.7,503,885,961 in royalties was collected from various mineral right holders translating to Kshs.750,388,596 that the National Treasury should have paid to the communities and Kshs.1,500,777,192.14 to the devolved units as detailed in the table below:

Year	Amount Kshs.	70% Kshs.	20% Kshs.	10% Kshs.
2016/2017	1,065,421,154	745,794,808	213,084,231	106,542,115
2017/2018	1,364,759,144	955,331,401	272,951,829	136,475,914
2018/2019	1,571,862,220	1,100,303,554	314,372,444	157,186,222
2019/2020	1,666,666,523	1,166,666,566	333,333,305	166,666,652
2020/2021	1,835,176,919	1,284,623,844	367,035,384	183,517,692
Total	7,503,885,961	5,252,720,172	1,500,777,192	750,388,596

However, all revenue collected was transferred to the exchequer account at the National Treasury and was not shared with County Governments or communities. The Ministry of Petroleum and Mining attributed the situation to lack of a framework for remission of royalties share to the communities and County Governments. Further, the Ministry of Petroleum and Mining and the National Treasury are yet to put in place a mechanism to ensure that the share of the County Governments and the communities are safeguarded until such a time when structures are in place for sharing collected royalties.

In addition, if the share for the County Governments and communities amounting to Kshs.2,251,165,788 is not set aside, the citizens in areas where mining activities are carried out might not benefit from royalties as the minerals being extracted are finite and might get depleted by the time structures for revenue sharing are established.

Consequently, the Management is in breach of the law.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, transactions and information reflected in the revenue statements comply, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the procedures performed, except for the matters described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective during the year under review.

Basis for Conclusion

1. Failure to Establish Artisanal Mining Committees

Section 94 of the Mining Act, 2016 requires establishment of Artisanal Mining Committee in every County. However, only six Artisanal Mining Committees have been established in the counties of Kakamega, Vihiga, Siaya/Kisumu, Migori, Kitui and Taita Taveta. The committees are expected to advise the representative of the Director of Mines in the granting, renewal, or revocation of artisanal mining permits. Some of the counties without established committees have large groups of unregulated artisanal miners that continue to operate without permits and hence denying the country revenues from mining activities.

2. Lack of Artisanal Miners Register

Regional mining officers did not maintain register of artisanal miners in their respective regions as required under Section 93(3) of the Mining Act, 2016. A check at sampled

regional mining offices established that the regional offices did not maintain a register of artisanal miners in their areas. Although the Management attributed this to lack of artisanal mining committees, it was established that even in Counties where there are Artisanal Mining Committees, the Ministry has not issued artisanal mining permits hence no artisanal mining register. This hinders efforts to supervise and monitor the operation and activities of artisanal miners and denies the Country revenues.

3. Lack of Monitoring of Mining Operations

During the year under review, the Ministry did not conduct inspections and audit of the mineral right holders as required under Section 20(1)(i) of the Mining Act, 2016. From the records and reports available at the Ministry, the last inspections were conducted in 2017. The Ministry therefore relies on data, and self-declarations by the mining companies to assess revenue payable, which may not be accurate and could lead to loss of revenue due to under declaration or non-declaration of production and sales figures. Further, failure to undertake inspections and monitoring of operations has brought about laxity by the companies in implementing the licensing conditions leading to accumulation of revenue arrears to Kshs.2,115,612,977 excluding those yet to be assessed and declared.

In view of the forgoing, the accuracy and validity of companies self-assessed sales and production reports used as basis for payments of royalties/levies of Kshs.1,843,684,919 as disclosed in the statement of receipts and disbursements was not confirmed.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal control, risk management and overall governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and those Charged with Governance

Management is responsible for the preparation and fair presentation of these revenue statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for maintaining effective internal control as Management determines is necessary to enable the preparation of statements that are free from material misstatement, whether due to fraud or error; and for assessment of the effectiveness of internal control, risk management and overall governance.

In preparing the revenue statements, Management is responsible for assessing the State Department's ability to sustain its services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to terminate the State Department or to cease operations.

Management is also responsible for the submission of the revenue statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for preparing and presenting the revenue statements described above, Management is also responsible for ensuring that the activities,

transactions and information reflected in the revenue statements comply with the authorities which govern them, and that public resources are applied in an effective way.

Those charged with governance are responsible for overseeing the revenue reporting process, reviewing the effectiveness of how the entity monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

The audit objectives are to obtain reasonable assurance about whether the revenue statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these revenue statements.

In addition to the audit of the revenue statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, transactions and information reflected in the revenue statements comply with the authorities that govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution.

Further, in planning and performing the audit of the revenue statements and audit of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal control would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the revenue statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal control may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the revenue statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of the applicable basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the ability of the State Department to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the revenue statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the State Department to cease to offer its services.
- Evaluate the overall presentation, structure and content of the revenue statements, including the disclosures, and whether the revenue statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding information and business activities of the State Department to express an opinion on the revenue statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that are identified during the audit.

I also provide Management with a statement that I have complied with relevant ethical requirements regarding independence and communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.


CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

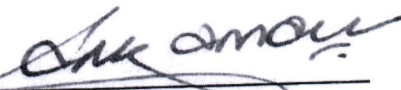
Nairobi

11 March, 2022

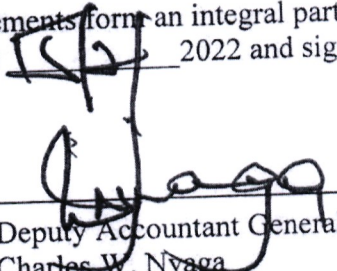
RECEIVER OF REVENUE – (State Department for Mining)
REVENUE STATEMENTS
FOR THE YEAR ENDED JUNE 30, 2021
STATEMENT OF RECEIPTS AND DISBURSEMENTS

	Note	2020/2021 K.sh	2019/2020 K.sh
Cement levy	1	882,501,150.95	859,480,302.00
Mineral Export Levy	2	9,830,916.00	4,049,000.00
Mining Royalties	3	162,256,614.45	193,379,152.28
Magadi Soda	4	235,180,462.00	105,234,970.00
Base Titanium	5	535,507,097.00	508,572,099.00
Carbacid	6	18,408,679.00	-
TOTAL NON TAX RECEIPTS		1,843,684,919.40	1,670,715,523.28
TOTAL RECEIPTS COLLECTED		1,843,684,919.40	1,670,715,523.28
Balance brought forward		-	21,677,729.00
Disbursement to the Exchequer Account		1,843,684,919.40	1,692,393,252.28
BALANCE CARRIED FORWARD		-	-

The accounting policies and explanatory notes to these revenue statements form an integral part of the revenue statements. These revenue statements were approved on 15/7/2022 and signed by:


Principal Secretary
Andrew N. Kamau C.B.S

11093


Deputy Accountant General
Charles W. Nyaga
ICPAK Member Number:

RECEIVER OF REVENUE – (State Department for Mining)
REVENUE STATEMENTS
FOR THE YEAR ENDED JUNE 30, 2021

STATEMENT OF ARREARS OF REVENUE AS OF 30 JUNE 2021

Classification of Receipts	Balance as at 1 st July 2020	Arrears received during the year	Additions in arrears for the current year to June 30, 2021	Total arrears as of 30 June 2021	Measures taken to recover the arrears	Assessment to the recoverability of arrears
Non Tax Receipts						
Magadi Soda	622,204,807	(235,180,462)	287,998,950	675,023,295	Received Partially	Awaiting response
African Diatomite	14,995,853	-	2,525,003.50	17,520,856.50	Defaulter Notice and reminders	Awaiting response
Kilimapesa	28,893,568.45	-	1,303,170.35	30,196,738.80	Default notice and reminders	Awaiting response
Carbacid (CO2) LTD	30,464,301	(18,408,679)	66,434,965	78,490,587.00	Received Partially	Awaiting response
Consol	49,273.60	(49,273.60)	3,354.60	3,354.60	Received fully	Response made
National Cement	28,871,500	(28,871,500)	33,380,831	33,380,831	Received fully	Response made
Arm	290,232,493	-	-	290,232,493	Defaulter Notice and reminders	Awaiting response
KarsanRamji & Sons	1,119,382	(1,119,382)	995,304	995,304	Received fully	Response made
Bamburi Cement	122,255,896.60	(122,255,896.60)	148,490,529.60	148,490,529.60	Received fully	Response made
Mombasa Cement	-	-	63,516,880	63,516,880		
EA Portland	280,329,449.60	-	124,430,122.60	404,759,572	Defaulter Notice and reminders	Awaiting response
Rai Cement	25,776,900	(25,776,900)	2,139,900	2,139,900	Received fully	Response made
Savanna Cement	375,862,635	(5,000,000)	-	370,862,635	Defaulter Notice and reminders	Payment plan Agreement
Total Arrears	1,821,056,059	(436,662,093)	731,219,011	2,115,612,977		

NOTE: There is an outstanding ground rent arrears of KSh 133,335, 445

RECEIVER OF REVENUE – (State Department for Mining)
 REVENUE STATEMENTS
 FOR THE YEAR ENDED JUNE 30, 2021

STATEMENT OF BUDGET COMPARISON

	Original budget 2020-2021 Kshs	Adjustments 2020-2021 Kshs	Final budget 2020-2021 Kshs	Actual on comparable basis 2020-2021 Kshs	Performance difference 2020-2021 Kshs	%variance	Note
Revenue							
Cement levy	651,665,012.00	-	651,665,012.00	882,501,150.95	230,836,138.95	35.4%	1
Mineral export levy	6,194,672.00	-	6,194,672.00	9,830,916.00	3,636,244.00	58.70%	2
Mining royalties	100,592,240.00	-	100,592,240.00	162,256,614.45	61,664,374.45	61.30%	3
Magadi soda	156,828,008.00	-	156,828,008.00	235,180,462.00	78,352,454.00	49.9%	4
Base titanium	479,488,192.00	-	479,488,192.00	535,507,097.00	56,018,905.00	11.68%	5
Carbacid	25,074,802.00	-	25,074,802.00	18,408,679.00	6,666,123.00	-26.60%	6
Prospecting fee	19,329,658.00	-	19,329,658.00	-	19,329,658.00	0%	7
Total Non-tax receipts	1,439,172,584.00	-	1,439,172,584.00	1,843,684,919.40	474,912,576.40	28.10%	
Total receipts	1,439,172,584.00	-	1,439,172,584.00	1,843,684,919.40	474,912,576.40	28.10%	

RECEIVER OF REVENUE – (State Department for Mining)
 REVENUE STATEMENTS
 FOR THE YEAR ENDED JUNE 30, 2021

NOTES TO THE REVENUE STATEMENTS

1. CEMENT LEVY

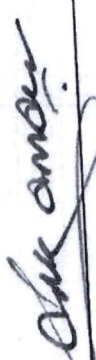
	Original Estimates	Revised Estimates	Actual	% Realized
Cement Levy	651,665,012.00		882,501,150.95	135.4%
Total Cement Levy	651,665,012.00		882,501,150.95	135.4%


Cement levy: This levy was received from various cement manufacturing companies as shown below

Mombasa Cement Company	Ksh. 267,112,956.00
Savannah Cement Company	Ksh. 5,000,000.00
National Cement Company	Ksh. 289,263,087.00
Rai Cement Company	Ksh. 40,776,900.00
Bamburi Cement Company	Ksh. 274,489,321.95
Karsan Ramji & Sons	Ksh. 5,858,886.20

The over collection of 35.4 % was due to Budget under estimation during the year under review.

The above revenue statement was approved on 15/7/2022 and signed by:


 Principal Secretary
 Andrew N. Kamau C.B.S


 Deputy Accountant General
 Charles W. Nyaga
 ICPAK Member Number: 11093

RECEIVER OF REVENUE – (State Department for Mining)
 REVENUE STATEMENTS
 FOR THE YEAR ENDED JUNE 30, 2021

2. MINERAL EXPORT LEVY

	Original Estimates	Revised Estimates	Actual	% Realized
Mineral Export Levy	6,194,672.00	6,194,672.00	9,830,916.00	158.70%
Total Mineral Export Levy	6,194,672.00	6,194,672.00	9,830,916.00	158.70%

Commentary on Actual Revenue against the Revised Estimates

Mineral Export Levy: There was an over-collection of 58.70% due to Budget underestimation during the year under review.

The above revenue statement was approved on ISF 2022 and signed by:


 Principal Secretary
 Andrew N. Kamau C.B.S


 Deputy Accountant General
 Charles W. Nyaga
 ICPAK Member Number: 11093

RECEIVER OF REVENUE – (State Department for Mining)
 REVENUE STATEMENTS
 FOR THE YEAR ENDED JUNE 30, 2021


3. MINING ROYALTIES


	Original Estimates	Revised Estimates	Actual	% Realized
Mining Royalties	100,592,240.00	100,592,240.00	162,256,614.45	161.30%
Total Mining Royalties	100,592,240.00	100,592,240.00	162,256,614.45	161.30%

Commentary on Actual Revenue against the Revised Estimates

Mining Royalties: There was an over-collection of 61.30% due to Budget Underestimation in the year under review.

The above revenue statement was approved on... 15/07/2022 and signed by:


 Principal Secretary
 Andrew N. Kamau C.B.S


 Deputy Accountant General
 Charles W. Nyaga
 ICPAK Member Number: 11093

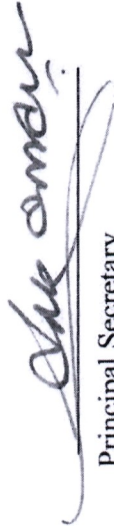
RECEIVER OF REVENUE -- (State Department for Mining)
 REVENUE STATEMENTS
 FOR THE YEAR ENDED JUNE 30, 2021

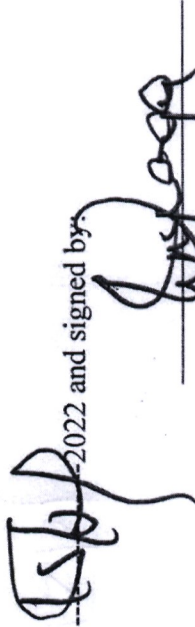
4. MAGADI SODA

	Original Estimates	Revised Estimates	Actual	% Realized
Magadi Soda	156,828,008.00	60,621,374.00	235,180,462.00	149.9%
Total Magadi Soda	156,828,008.00	60,621,374.00	235,180,462.00	149.9%

Magadi Soda: There was an over collection of 49.9% due to Budget underestimation in the year under review

The above revenue statement was approved on 12/15/2022 and signed by:


 Principal Secretary
 Andrew N. Kamau C.B.S


 Deputy Accountant General
 Charles W. Nyaga
 ICPAK Member Number: 11093

RECEIVER OF REVENUE – (State Department for Mining)
 REVENUE STATEMENTS
 FOR THE YEAR ENDED JUNE 30, 2021

5. BASE TITANIUM ROYALTY


	Original Estimates	Revised Estimates	Actual	% Realized
Base Titanium Royalty	479,488,192.00	479,488,192.00	535,507,097.00	111.68%
Total Base Titanium Royalty	479,488,192.00	479,488,192.00	535,507,097.00	111.68%

Commentary on Actual Revenue against the Revised Estimates

Base Titanium Royalty: There was an over collection of 11.68% resulting to over collection of revenue in the year under review. This was due to mineral deposits underground cannot be forecasted with certainty, at times in one location there might be small quantities, while at another significant quantity.

The above revenue statement was approved on 12/12/2022 and signed by:


 Principal Secretary
 Andrew N. Kamau C.B.S


 Deputy Accountant General
 Charles W. Nyaga
 ICPAK Member Number: 11093

RECEIVER OF REVENUE – (State Department for Mining)
 REVENUE STATEMENTS
 FOR THE YEAR ENDED JUNE 30, 2021

6. CARBACID

	Original Estimates	Revised Estimates	Actual	% Realized
Carbacid (CO ₂) ltd	25,074,802.00	25,074,802.00	18,408,679.00	-26.6%
Total Carbacid	25,074,802.00	25,074,802.00	18,408,679.00	-26.6%

Commentary on Actual Revenue against the Revised Estimates

Carbacid: There was an under collection of 26.6 % due to Budget overestimation in the Year under Review.

The above revenue statement was approved on 15.11.2022 and signed by:



Principal Secretary
 Andrew N. Kamau C.B.S



Deputy Accountant General
 Charles W. Nyaga
 ICPAK Member Number: 11093

RECEIVER OF REVENUE – (State Department for Mining)
 REVENUE STATEMENTS
 FOR THE YEAR ENDED JUNE 30, 2021

AGEING ANALYSIS OF REVENUE IN ARREARS

Description (Fees on use of goods and services)	Below 1 year	More than 2 years	Total
Magadi soda	-	675,023,295.00	675,023,295
African diatomite	-	17,520,856.20	17,520,856.20
Carbacid	-	78,490,587.00	78,490,587.00
Kilimapesa	-	30,196,738.80	30,196,738.80
Arm cement	-	290,232,493.00	290,232,493.00
E.A Portland cement	-	404,759,572.20	404,759,572.20
Savannah Cement	-	370,862,635.00	370,862,635.00
consol	3,354.60		3,354.60
Bamburi Cement	148,490,529.60		148,490,529.60
Mombasa Cement	63,516,880	-	63,516,880
Karsan ramji	995,304		995,304
National cement	33,380,831	-	33,380,831
Rai Cement	2,139,900		2,139,900
Totals	248,526,799	1,867,086,178	2,115,612,976

**RECEIVER OF REVENUE – (State Department for Mining)
REVENUE STATEMENTS
FOR THE YEAR ENDED JUNE 30, 2021**

**APPENDIX 1: A REPORT OF WAIVERS AND VARIATIONS OF TAXES, FEES, OR
CHARGES GRANTED BY THE RECEIVER OF REVENUE DURING THE YEAR.**

There was no waiver during the financial year 2020/2021

RECEIVER OF REVENUE – (State Department for Mining)
 REVENUE STATEMENTS
 FOR THE YEAR ENDED JUNE 30, 2021

APPENDIX 2: PROGRESS ON FOLLOW UP OF PRIOR YEAR AUDITOR
 RECOMMENDATIONS

The following is the summary of issues raised by the external auditor, and management comments that were provided to the auditor. We have nominated focal persons to resolve the various issues as shown below with the associated time frame within which we expect the issues to be resolved.

F/Y-2018/2019

Reference No. on the external audit Report	Issue / Observations from Auditor	Management comments	Focal Point person to resolve the issue (Name and designation)	Status: (Resolved / Not Resolved)	Timeframe: (Put a date when you expect the issue to be resolved)
001	Unsupported Transfer to the Exchequer Account	Report has been made to the Auditor General	S.C.F.O	Not Resolved	Awaiting clearance from P.A.C
002	Unreported Cement Arrears	Report has been made to the Auditor General	Head of internal Audit	Not Resolved	Awaiting clearance from P.A.C
003	Unassessed Royalties Due from salt Mining Companies	Report has been made to the Auditor General	Director of Mines	Not Resolved	Awaiting clearance from P.A.C
004	Mineral Export without Permits	Report has been made to the Auditor General	Director of Mines	Not Resolved	Awaiting clearance from P.A.C
005	Un-procedural Export of mineral samples	Report has been made to the Auditor General	Director of Mines	Not Resolved	Awaiting clearance from P.A.C
006	Uncollected Mining Revenue	Report has been made to the Auditor General	Director of Mines	Not Resolved	Awaiting clearance from P.A.C

**RECEIVER OF REVENUE – (State Department for Mining)
REVENUE STATEMENTS
FOR THE YEAR ENDED JUNE 30, 2021**

F/Y- 2019/2020

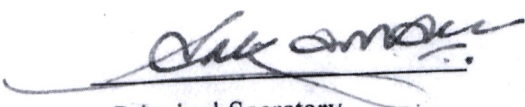
Reference No. on the external audit Report	Issue / Observations from Auditor	Management comments	Focal Point person to resolve the issue (Name and designation)	Status: (Resolved / Not Resolved)	Timeframe: (Put a date when you expect the issue to be resolved)
001	Unreported Cement levy Arrears by East Africa Portland	Report has been made to the Auditor General	Director of Mines	Not Resolved	Awaiting to Appear before P.A.C
002	Long Outstanding Arrears from savannah cement company	Report has been made to the Auditor General	Director of Mines	Not Resolved	Awaiting to Appear before P.A.C
003	Non– settlement of cement levy Arrears by ARM cement PLC	Report has been made to the Auditor General	Director of Mines	Not Resolved	Awaiting to Appear before P.A.C
004	Long outstanding Dues from Magadi Soda Company	Report has been made to the Auditor General	Director of Mines	Not Resolved	Awaiting to Appear before P.A.C
005	Long outstanding Dues from carbacid limited	Report has been made to the Auditor General	Director of Mines	Not Resolved	Awaiting to Appear before P.A.C
006	Unremitted Mining Royalties	Report has been made to the Auditor General	Director of Mines	Not Resolved	Awaiting to Appear before P.A.C

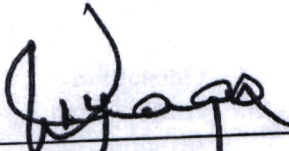
**RECEIVER OF REVENUE – (State Department for Mining)
REVENUE STATEMENTS
FOR THE YEAR ENDED JUNE 30, 2021**

Guidance Notes:

- (i) Use the same reference numbers as contained in the external audit report;
- (ii) Obtain the “Issue/Observation” and “management comments”, required above, from final external audit report that is signed by Management;
- (iii) Before approving the report, discuss the timeframe with the appointed Focal Point persons within your entity responsible for implementation of each issue;

The above revenue statement was approved on 12/12/2022 and signed by:


Principal Secretary
Andrew N. Kamau C.B.S


Deputy Accountant General
Charles W. Nyaga
ICPAK Member Number: 11093