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OFFICE OF THE AUDITOR-GENERAL

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REPORT

THE NATIONAL ASSEMBLY
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DATE: 15 FEB 2023

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THE AUDITOR-GENERAL

ON

NATIONAL ENVIRONMENT TRIBUNAL

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



NATIONAL ENVIRONMENT TRIBUNAL

DRSRS Building, Popo Road, P.O. Box 6464 – 00100 Nairobi, Kenya
Tel: (+254-020) 6003729 Email: nettr@court.go.ke Website: www.net.or.ke

ANNUAL REPORT AND FINANCIAL STATEMENTS

FOR THE FINANCIAL YEAR ENDED 30th JUNE 2021

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

NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30th JUNE 2021

TABLE OF CONTENTS

| | |
|--|-------|
| | i |
| I. KEY ENTITY INFORMATION AND MANAGEMENT | iii |
| II. TRIBUNAL MEMBERS | v |
| III. MANAGEMENT TEAM | xii |
| IV. CHAIRMAN'S STATEMENT..... | xiii |
| V. REPORT OF THE CHIEF EXECUTIVE OFFICER | xvi |
| VI. MANAGEMENT DISCUSSION AND ANALYSIS | xvii |
| VII. CORPORATE SOCIAL RESPONSIBILITY/SUSTAINABILITY REPORTING | xviii |
| VIII. REPORT OF THE DIRECTORS..... | xix |
| IX. STATEMENT OF DIRECTORS RESPONSIBILITIES | xx |
| X. REPORT OF THE INDEPENDENT AUDITORS ON NET | xxi |
| XI. STATEMENT OF FINANCIAL PERFORMANCE FOR THE YEAR ENDED 30 TH JUNE 2021 | |
| XII. STATEMENT OF FINANCIAL POSITION AS AT 30 TH JUNE 2021 | 2 |
| XIII. STATEMENT OF CHANGES IN NET ASSETS FOR THE YEAR ENDED 30 JUNE 2021 | 3 |
| XIV. STATEMENT OF CASHFLOWS FOR THE YEAR ENDED JUNE 30, 2021 | 4 |
| XV. STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS FOR THE YEAR ENDED 30 JUNE 2021 | 5 |
| XVI. NOTES TO THE FINANCIAL STATEMENTS | 6 |
| XVII. Appendix I: PROGRESS ON FOLLOW UP OF AUDITOR RECOMMENDATIONS | 23 |
| XVIII. Appendix II: INTER-ENTITY TRANSFERS | 24 |

**NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30th JUNE 2021**

I. KEY ENTITY INFORMATION AND MANAGEMENT

Background information

The National Environment Tribunal is established under **Section 125** of the Environmental Management and Co-ordination Act (Cap 387 of the Laws of Kenya) (Previously cited as Act No. 8 of 1999). Its mandate is provided under section 129 (1) and 129(2) of EMCA, **Section 70(2)** of the Forest Conservation and Management Act and **Section 25(6)** of the Wildlife conservation and Management Act. NET is domiciled in Kenya and its offices are at Department of Remote sensing and Resource survey on Popo Road south C Nairobi. It is an important institution in ensuring adherence to Environmental Law and promoting sustainable Development. It plays an important role in providing remedies for violation of Environmental Law, laws under the Kenya wildlife Act and Kenya Forest Act in accordance with its area of Jurisdiction. NET thus ensures compliance with environmental law and makes determinations on appeals raised against the decisions of NEMA, KFS and committees of Kenya wildlife services.

Principal Activities

The principal activity of the National Environment Tribunal is to make determination on appeals based on facts & Law advanced by opposing parties. Its mission and vision are as follows;

Vision: Increased compliance with the law for sustainable environmental management.

Mission: To provide Accessibility to Environmental Justice That is Expeditious and Inexpensive

Entity Headquarters

National Environment Tribunal
P. O. Box 6464 - 00100
Bellevue Area, Popo Road off Mombasa Road
DRSRS Building
Nairobi, KENYA

Entity Contacts

Telephone: (+254-020) 6003729 extension-295

Email: nettr@court.go.ke

Website: www.net.or.ke

**NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30th JUNE 2021**

Entity Bankers

Kenya Commercial Bank
KCB KICC Branch
Nairobi, KENYA

Independent Auditors

Auditor General
Kenya National Audit Office
Anniversary Towers, University Way
P. O. Box 30084
GOP 00100
Nairobi, KENYA

Principal Legal Adviser

The Attorney General
State Law Office
Harambee Avenue
P.O. Box 40112
City Square 00200

**NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30th JUNE 2021**

II. TRIBUNAL MEMBERS



Balala S. Mohammed

Chairperson

Education Background:

- 2019 Candidate for Master's in Law (LLM) Oil & Gas – Strathmore Law School, Strathmore University.
- 2012 Certificate in Mediation course – conducted by the Devon & Somerset Law Society
- 2012 Certificate in Trial Advocacy Training - Justice Africa Advocacy
- 1996 Post Graduate Diploma in Law from the Kenya School of Law
- 1993-1995 LLB (Hons) - Bond University in Queensland.
- 1990 Bachelor of Arts in Technology and Management Studies at Moi University, Eldoret, Kenya



Work Experience:

- 2019 – to date: Member and Chairman of the National Environment Tribunal.
- 2016 – 2018: Member & Chairman of National Environment Tribunal.
- 2009 – 2011 Chairman of Mombasa Law Society.
- 1999 – to date: Senior Partner with firm of Balala & Abed Advocates
- 1995 - 1998: Legal Assistant & Advocate, Daly & Figgis Advocates, Nairobi, Kenya.


Boards:

- Member of the Law Society of Kenya and East Africa Law Society.
- Member of the Institute of Certified Public Secretaries of Kenya
- Member of the Chartered Institute of Arbitrators
- Vice Chairman Mombasa Law Society 2005;

NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30th JUNE 2021

| | |
|--|--|
| | <ul style="list-style-type: none"> • Chairman of the Mombasa Law Society 2009-2011. |
|  <p>Christine M. Kipsang Vice Chairperson</p> | <p>Education Background:</p> <ul style="list-style-type: none"> • LL. B • Masters ongoing |
|  <p>Dr. Kariuki Muigua Member</p> | <p>Education Background:</p> <ul style="list-style-type: none"> • Doctor of Philosophy in Law (Ph.D.) -2011 • Master of Laws (LL.M) – 2005 University of Nairobi specializing in Environmental Law and Natural Resource Conflicts/Dispute Resolution. • Diploma in Legal Education (Dip. Law KSL) (1989) Kenya School of Law • Bachelor of Laws (LL. B) (1988) University of Nairobi LL. B • Dip. In Arbitration (UK) 2012 • Chartered Institute of Arbitrators Conferred Chartered Arbitrator <p>Work Experience:</p> <ul style="list-style-type: none"> • University of Nairobi, School of Law Serves as the chair of the Private Law Department with effect from 3rd June 2020. • National Steering Committee for Formulation of the Alternative Dispute Resolution Policy, 2020 • Chartered Institute of Arbitrators, CIARB Regional Trustee for Africa (2019 to date). • Senior Partner, Kariuki Muigua & Co. Advocates (1993 to date). |

**NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30th JUNE 2021**

| | |
|---|--|
| | <ul style="list-style-type: none"> • Advocate, Kinyanjui & Co. Advocates (1991-1993) • Office of the Attorney General (1990) State Counsel • Chairman, Chartered Institute of Arbitrators (Kenya branch) - 2012 to 2015 • Tutor, Chartered Institute of Arbitrators • Ministry of Industrialisation Served as Chairman of Standards Tribunal appointed vide Gazette Notice No. 10619 of 7th September, 2010 • Lead Expert/Consultant • Lead Auditor/Implementer BSI/ISO/IEC 27001:2005 (Information Security Management Systems). |
|  <p>Andrew Bahati Mwamuye MBS Member</p> | <p>Education Background:</p> <ul style="list-style-type: none"> • LL. B • Masters Ongoing |

NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30th JUNE 2021



Waitthaka Ngaruiya

Member

Education Background:

- 1992 – 1996: Mbari ya Ruga Primary School
- 1997 – 2000: St. Martin’s Boys Primary School
Kenya Certificate of Primary Education
- 2001 – 2004: Kiambu High School Kenya
Certificate of Secondary Education
- 2005 – 2009: University of Nairobi, School of Law
Bachelors of Laws (LL. B)
- 2010: Kenya School of Law Diploma in
Advocates Training Program.

Work Experience:

- NOVEMBER 2015 – TO DATE: WAITHAKA &
ASSOCIATES ADVOCATES Managing Partner
and Head of Dispute Resolution Department
responsible for advising clients on legal issues and
primarily engages on litigation before all courts
and statutory tribunals, legislative drafting and
case management of all disputes in the firm.
- SEPTEMBER 2014 – NOVEMBER 2015:
MOSETI ODONGO WAITHAKA PARTNERS
Partner and Head of Dispute Resolution
Department responsible for advising clients on
legal issues and primarily engages on litigation
before all courts and statutory tribunals, legislative
drafting and case management of all disputes in
the firm.

Legal Internship:

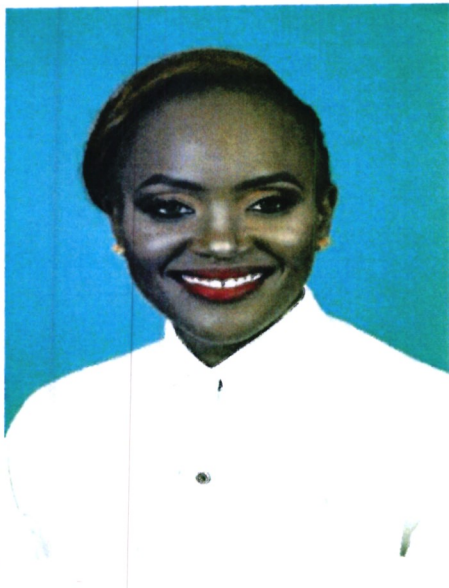
- January 2011 to March 2011: - City Council of
Nairobi – Legal Department
- March 2011 to August 2011: - Kounah & Co
Advocates

Associate Advocate:

- September 2011 to September 2013: - R.W
Mbanya & Co Advocates

**NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30th JUNE 2021**

| | |
|--|--|
| | <ul style="list-style-type: none"> October 2013 to September 2014: - Wairagu & Wairagu Advocates Head of the Litigation |
|--|--|

| | |
|--|---|
|  <p>Bellinda Akello Secretary</p> | <p>Education Background:</p> <ul style="list-style-type: none"> March 2018 Environmental Social and Impact Assessment Focus on Oil and Gas Project February 2018 Social Assessment Community involvement and Stakeholder engagement in Oil and Gas sector September 2017 Legal and Governance Audit November 2016 Professional Mediation Training June 2012 – June 2014 Australian National University Graduate Certificate in Public Administration - High Distinction Australian National University Master of Public Policy – High Distinction March - April 2012 Australian National University Master of Diplomacy - Distinction Oct - Nov 2010 Chartered Institute of Arbitrators Entry course in Arbitration. 2006-2007 Human Rights Education Associates Certificate for International Refugee Law & Contemporary Challenges 2002- 2006 Kenya School of Law (KSL) Post-graduate Diploma in Law 2001-2004 University of Nairobi (UON) LL. B (Hons) Bachelor of Laws - 2nd Class Honours Upper Division 1997-2000 BSc. United States International University (USIU) Major: International Business Administration. Minor: Finance. Graduated: BSc. IBA (Finance) -Magna Cum Laude. 1994-1996 Precious Blood High School Kenya Certificate of Secondary Education (KCSE) – A |
|--|---|

**NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30th JUNE 2021**

| | |
|--|--|
| | <p style="text-align: right;">Kenya Certificate of Primary Education (KCPE) Molo Academy</p> <p>Work Experience:</p> <ul style="list-style-type: none">• March 2015 – To date Deputy Director Legal Department National Land Commission• June 2014 – Feb 2015 County Secretary/CEO National Land Commission Vihiga Office• Sept 2010 – June 2012 Legal Officer Truth, Justice and Reconciliation Commission• 3 Mar 2007 – Sept 2010 Eligibility Consultant UNHCR Sub-office Dadaab• 2006 - 2007 Pupillage At Mohammed Muigai Advocates• Jan – May 2005 FIDA – Kenya Intern Legal Officer• 2003-2004 Standard Chartered Bank- Nairobi Kenya Personal Financial Consultant, Peak Time Support Clerk |
|--|--|



**NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30th JUNE 2021**

SUB COMMITTEE OF THE BOARD OF MANAGEMENT

| Name of the Committee | Members |
|---|---|
| Finance & Procurement committee | <ol style="list-style-type: none">1. Bahati Mwamuye2. Christine Kipsang3. Bellinda Akello |
| Governance & Strategy committee | <ol style="list-style-type: none">1. Christine Kipsang2. Bahati Mwamuye3. Bellinda Akello |
| Audit Risk & Compliance | <ol style="list-style-type: none">1. Waithaka Ngaruiya2. Dr. Kariuki Muigua3. Bellinda Akello |
| Administration and Human Resource committee | <ol style="list-style-type: none">1. Dr. Kariuki Muigua2. Waithaka Ngaruiya3. Bellinda Akello |

**NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30th JUNE 2021**

III. MANAGEMENT TEAM

| Name of the Staff | Responsibility |
|---|--|
|  <p>M/s Bellinda Akello-CEO LL.B, Bsc. IBA (Finance), Masters in Diplomacy</p> | <p>Accounting officer and head of Administration</p> |
|  <p>Mr. Duncan Kombo Senior Accountant <u>Date of Birth</u> - 20th March 1967 <u>Education Background</u> Kenya Polytechnic (CPA K) Computer Systems & operations - Kenya Polytechnic Performance Appraisal Systems (PAS) (K.S.M.S) KACE - Kangaru School KCE - Kaganru School <u>Work Experience</u> KENAO - Auditor KFS - Cashier</p> | <p>Head of Finance</p> |

**NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30th JUNE 2021**

IV. CHAIRMAN'S STATEMENT

The National Environment Tribunal is established under **Section 125** of the Environmental Management and Co-ordination Act (Cap 387 of the Laws of Kenya) (Previously cited as Act No. 8 of 1999). Its mandate is provided under section **129 (1)** and **129(2)** of EMCA, **Section 70(2)** of the Forest Conservation and Management Act and **Section 25(6)** of the Wildlife conservation and Management Act. Its principal function is to receive, hear and determine appeals arising from decisions of the National Environment Management Authority (NEMA) on issuance, denial or revocation of environmental impact assessment (EIA) licenses, among other decisions, the decisions of Kenya Wildlife services (KWS) through the Ministerial wildlife conservation and compensation committee and those of the Kenya forest services (KFS).

The mandate of NET as espoused under Section 129 (1) of **EMCA**

Any person who is aggrieved by—

- (a) the grant of a licence or permit or a refusal to grant a licence or permit, or the transfer of a licence or permit, under this Act or regulations made thereunder;
- (b) the imposition of any condition, limitation or restriction on his license under this Act or regulations made thereunder;
- (c) the revocation, suspension or variation of his license under this Act or regulations made thereunder;
- (d) the amount of money which he is required to pay as a fee under this Act or regulations made thereunder;
- (e) the imposition against him of an environmental restoration order or environmental improvement order by the Authority under this Act or regulations made thereunder, may within sixty days after the occurrence of the event against which he is dissatisfied, appeal to the Tribunal in such manner as may be prescribed by the Tribunal.

May within sixty days after the occurrence of the event against which he is dissatisfied, appeal to the Tribunal in such manner as may be prescribed by the Tribunal.

Section 129(2) EMCA, unless otherwise expressly provided in this Act, where this Act empowers the Director-General, the Authority or Committees of the Authority or its agents to make decisions, such decisions may be subject to an appeal to the Tribunal in accordance with such procedures as may be established by the Tribunal for that purpose.

Pursuant to Section 70 (2) of the **Forest Conservation and Management Act**, 2016 appeals under the Act come to the Tribunal.

**NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30th JUNE 2021**

Pursuant to Section 25 (6) of the **Wildlife Conservation and Management Act** No. 47 of 2013, The National Environment Tribunal has jurisdiction to entertain and determine appeals arising therefrom.

Any person aggrieved by a decision or order of the Tribunal may, within thirty days of such decision or order, appeal against such decision or order to the High Court, whose decision shall be final.

The Importance of NET in ensuring sustainable use of resources reflects in various landmark decisions it has made as highlighted below:

a. **NET APPEAL NO. 144 OF 2015 BETWEEN HASSAN NOOR HASSAN & 79 OTHERS VS DG, NEMA, WASTE AFRICA LIMITED AND MUTHONI JUNGHAE an appeal against a license issued to waste Africa limited permitting disposal of asbestos.**

- The Tribunal reduced the issues for determination to two;
 - **Whether the EIA License was issued in accordance with the provisions of the Environment Management and co-ordination Act; and**
 - **Whether the 2nd Respondent complied with the conditions of the EIA License.**

The Tribunal determined that there was no public participation as envisaged in EMCA and EIA regulations, that while the guidelines on removal, transportation and disposal of asbestos require among others that a hydrogeological report of the disposal site be included in the EIA report, the EIA report filed by NEMA did not include such a report, that while determination of the safest distance for disposal of asbestos in an area with human settlements was to be done by the Ministry of Public Health and sanitation and provided under guideline 5.3, no evidence was tendered to prove such a determination by the relevant Ministry, in this regard the Tribunal found the License to be in violation of the law.

b. **NET APPEAL NO. 215 OF 2017 BETWEEN SUSTAINABLE ENERGY SYSTEMS LTD VS KENYA FOREST SERVICES an appeal against the decision of KFS to terminate and/or rescind the special use license for development of a wind power project at Ngong Hills.**

The Tribunal drew issues for determination as:

- a. **Whether the special use license was validly issued.**
- b. **Whether termination of the special use License was lawful and Procedural.**

The Tribunal determined that the constitution of the Respondents board was proper at the time of issuing the special use license, That in issuing the special use license, the Director was within the scope of his authority as the CEO to the service and thus decision not ultra vires, That the special use license was validly issued.

**NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30th JUNE 2021**

- c. **NET APPEAL NO. 181 OF 2016 BETWEEN JOSEPH MWAHUNGA (minor suing through his next friend and father JAMES MWAHUNGA TUNJE) VS KENYA WILDLIFE SERVICE, CABINET SECRETARY MINISTRY OF ENVIRONMENT NATURAL RESOURCES AND REGIONAL DEVELOPMENT an appeal against the decision of KWS to reject a compensation claim made by the Appellant due to harm caused by a snake bite.**

The issues for determination were:

- a. Whether the claim by the Appellant against the decision of the committee was sustainable.

The Tribunal found against the decision of the County Wildlife conservation and compensation committee that the snake bite was not by a venomous snake on the basis that the effect of the snake bite was a cytotoxic reaction occasioning swelling which spread up to the Appellants left arm. That after the bite, the minor lost consciousness and was admitted for 10 days in hospital. That even after discharge from the hospital, the minor continued to suffer swelling on his leg and abdomen. The Tribunal recommended an award of 1,000,000 in favour of the minor.



.....
Chairman

National Environment Tribunal

**NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30th JUNE 2021**

V. REPORT OF THE CHIEF EXECUTIVE OFFICER

The National Environment Tribunal is established under **Section 125** of the Environmental Management and Co-ordination Act (Cap 387 of the Laws of Kenya) (Previously cited as Act No. 8 of 1999). Its mandate is provided under section **129 (1)** and **129(2)** of EMCA, **Section 70(2)** of the Forest Conservation and Management Act and **Section 25(6)** of the Wildlife conservation and Management Act.

NET currently has five members (Chairperson, Vice Chairperson and three other members – an advocate, a lawyer and two other environmentalists). Their appointment was vide Gazette Notice No. 147 Vol. CXXI dated 29th October 2019 No. 10235 by the Cabinet Secretary Ministry of Environment and Forestry.

NET has a full time CEO/Secretary who oversees day to day administration of the Tribunal. The Secretary to the Tribunal was appointed vide Gazette Notice No. 147 Vol. CXXI dated 29th October 2019 No. 10234. There are six (6) other members of staff from both the Ministry of Environment and Forestry, and, the Judiciary.

During the reporting period NET has managed to hear and determine a total of 35 Appeals of 42 Appeals filed relating to the decisions of NEMA, KFS and KWS. This is a key achievement though not the optimal that can be achieved with adequate financial resources.

NET has a significant role to play in the Big Four Agenda as it hears and determines matters relating to housing, infrastructural development and environmental issues such as pollution which is a key variable impacting the health and well-being of the people.


.....
Chief Executive Officer

National Environment Tribunal

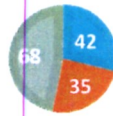
**NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE 2021**

VI. MANAGEMENT DISCUSSION AND ANALYSIS

The following is a report of the Appeals NET has handled and pending matters for the financial year ended 30th June 2021.

**A CHART OF THE TRIBUNAL NON FINANCIAL
PERFORMANCE FOR THE FINANCIAL YEAR
ENDED 30TH JUNE 2021.**

■ Filed ■ Resolved ■ Pending



The Tribunal in carrying out its core mandate has conducted a number of site visits and sittings to facilitate decision making. In enhancing its mission towards expeditious and inexpensive access to justice, the Tribunal has held sitting at various locations as a measure to ensure witnesses in various cases are able to reach the court and give testimony in relation to various matters before it. The achievement of 83.3% in dispensing of appeals filed within the financial year has been as a result of great effort and determination even with inadequate resources to achieve the Tribunal's optimal potential.

As can be deduced from the report, the Tribunal has over time accumulated cases that spread over a single financial year. This calls for active case management and enhanced effort towards expeditious disposal of cases. In this regard, the Tribunal's budget should be enhanced to enable proactive measures such as case conferencing that aim to enable quick disposal of cases.

The Tribunal has also participated in various environmental activities geared towards enhancing its visibility and creating awareness among the public who are the greatest beneficiaries of a healthy and safe environment as provided under the Constitution of Kenya 2010.

The Tribunal has also sought to enhance effectiveness and efficiency in its operations through revision of its procedure rules and engagement of stakeholders in the review process. This has resulted in a draft procedure rule with processes ongoing for validation and further stakeholder engagement towards adoption of the new rules.

**NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE 2021**

VII. CORPORATE SOCIAL RESPONSIBILITY/SUSTAINABILITY REPORTING

The Tribunal did not have a budgetary allocation to facilitate CSR in the financial year 2020/21, however, as a key environmental governance entity, the Tribunal can contribute to enhanced forest cover as provided in the vision 2030 development agenda. The Tribunal can play a critical role in training and creating awareness of the public on the importance of using forest resources, wildlife resources and environmental resources with the future generation in mind.

NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE 2021

VIII. REPORT OF THE DIRECTORS

The directors' presents, audited financial statement reports for the quarter ended 30th June 2021, which gives an opinion on the position of NET.

Principle Activity

NET determines appeal cases from NEMA (National Environment Management Authority, KWS (Kenya Wildlife Service) and KFS (Kenya Forest Service).

Results

The results of the entity for the year ended June 30, 2021 are set out on page 1

Directors

The members of the Board of Directors who served during the year are shown on pages V-X. During the year no director retired/ resigned and none was appointed.

Dividends/Surplus remission

In accordance with Section 219 (2) of the Public Financial Management Act regulations, regulatory entities shall remit into Consolidated Fund, ninety per centum of its surplus funds reported in the audited financial statements after the end of each financial year. The entity did not make any surplus during the year (FY 2020/2021 Nil) and hence no remittance to the Consolidated Fund.

Auditors

The Auditor general appoints an auditor who is responsible for the statutory audit of NET in accordance with Article 229 of the Constitution of Kenya and the Public Audit Act 2015 for period ended 30th June 2021 in accordance to section 23 of the Public Audit Act, 2015.

By Order of the Board



.....
Chief Executive Officer
National Environment Tribunal

NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE 2021

IX. STATEMENT OF DIRECTORS RESPONSIBILITIES

Section 81 of the Public Finance Management Act, 2012 requires the directors to prepare Financial Statement in respect of the Tribunal which give a true and fair view of the Tribunal at the end of the financial year; and the operating results of the Tribunal for the financial year. The Directors are also required to ensure that the Tribunal keeps proper accounting records which disclose with reasonable accuracy the financial position of the Tribunal. The Directors are responsible for safeguarding the assets of the tribunal.

The Directors are responsible for the preparation and presentation of the Tribunal's financial statements, which give a true and fair view of the state of affairs of the Tribunal for and as at the end of the financial year 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 Tribunal; (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 Tribunal; (v) selecting and applying appropriate accounting policies; and (vi) making accounting estimates that are reasonable in the circumstances.

The Directors accept responsibility for the Tribunal's financial statements, which have been prepared using appropriate accounting policies supported by reasonable and prudent judgements and estimates, in conformity with International Public Sector Accounting Standards (IPSAS), and in the manner required by the PFM Act, 2012 and EMCA Act 1999 (Amended 2015). The Directors are of the opinion that the Tribunal's financial statements give a true and fair view of the state of the Tribunal's transactions during the financial year, and of the Tribunal's financial position as at 30th June 2021. The Directors further confirm the completeness of the accounting records maintained for the Tribunal, which have been relied upon in the preparation of the Tribunal's financial statements as well as the adequacy of the systems of internal financial control.

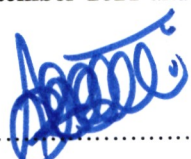
Nothing has come to the attention of the Directors to indicate that NET will not remain a going concern for at least the next twelve months from the date of this statement.

Approval of the financial statements

The Tribunal's financial statements were approved by the Board on **30th September 2021** and signed on its behalf by:


.....

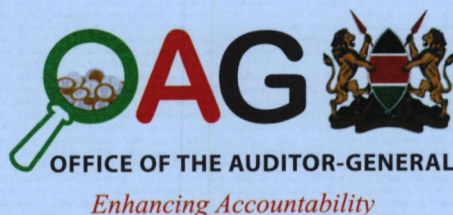
Chairman


.....

Chief Executive Officer

REPUBLIC OF KENYA

Telephone: +254-(20) 3214000
E-mail: info@oagkenya.go.ke
Website: www.oagkenya.go.ke



HEADQUARTERS
Anniversary Towers
Monrovia Street
P.O. Box 30084-00100
NAIROBI

REPORT OF THE AUDITOR-GENERAL ON NATIONAL ENVIRONMENT TRIBUNAL 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 Financial Statements that considers whether the financial 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, gazette 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 FINANCIAL STATEMENTS

Opinion

I have audited the accompanying financial statements of National Environment Tribunal set out on pages 1 to 23, which comprise the statement of financial position as at 30 June, 2021, statement of financial performance, statement of cash flows and 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, the financial statements present fairly, in all material respects, the financial position of National Environment Tribunal as at 30 June, 2021, and of its financial performance and its cash flows for the year then ended, in accordance with the International Public Sector Accounting Standards (Accrual Basis) and comply with the Public Finance Management Act, 2012 and Environmental Management and Co-ordination (Amendment) Act, 2015.

Basis of Opinion

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the National Environment Tribunal 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 financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial 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, I confirm that, nothing 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

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, financial transactions and information reflected in the financial statements are in compliance, 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 audit 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.

Basis for Conclusion

1. Manual Accounting System

The Tribunal maintained manual accounting records which expose the records to errors of omissions and commissions. Although the Management has indicated that they are in the process of procuring an accounting system, the continued use of the manual accounting system could work to the disadvantage of the organization.

2. Board Succession Plan

All the five (5) Board Members were appointed on 29 October, 2019 and their term lapses in October, 2022. This is contrary to Chapter 1.14 of Mwongozo code of governance for state corporations which provides that the appointing authority should ensure that the tenure of Board Members is staggered to ensure a phased transition.

Consequently, operations of the Tribunal risk being grounded if a new Board is not appointed on time.

3. Lack of an Internal Audit Unit

The Management did not have an established Internal Audit unit but relied on auditors from the Ministry of Environment and Forestry.

Consequently, oversight on risk management, internal controls and governance was weak.

4. Lack of Risk Management Policy

The Tribunal had not put in place a Risk Management Policy, risk management strategies and a risk register to manage risks. It was, therefore, not clear how the Management manages risks exposures. This is a contravention of Regulation 165 of the Public Finance Management (National Government) Regulations, 2015 which requires the Accounting Officer to ensure that a national government entity develops risk management strategies, which include fraud prevention mechanism and internal control that builds robust business operations.

5. Lack of Segregation of Duties

Review of the Tribunal's organizational structure revealed that the Finance Department had only one staff, the Head of the Department. Though he was assisted by interns, the officer singlehandedly processed payments, maintained the cash book, prepared bank reconciliations and posted the ledger.

Consequently, lack of segregation of duties exposes the Tribunal to a risk of errors and falsification of accounting entries.

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 the Board of Directors

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

In preparing the financial statements, Management is responsible for assessing the Tribunal's ability to continue 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 Tribunal or to cease operations.

Management is also responsible for the submission of the financial 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 the preparation and presentation of the financial statements described above, Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

The Board of Directors is responsible for overseeing the financial reporting process, reviewing the effectiveness of how the Tribunal 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 financial 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 financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance 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 and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial 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 financial 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 financial 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 Tribunal's ability 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 financial 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 Tribunal to cease to sustain its services.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Tribunal to express an opinion on the financial 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 to 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

19 July, 2022

**NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE 2021**

XI. STATEMENT OF FINANCIAL PERFORMANCE FOR THE YEAR ENDED 30TH JUNE 2021

| | Note | 2020-2021 |
|--|------|-------------------|
| | | Kshs. |
| Government Grant | 5 | 40,772,442 |
| Other Incomes | 6 | 60,411 |
| Total Revenue | | 40,832,853 |
| Use of goods & Services | 7 | 2,379,652 |
| Employee costs | 8 | 3,840,183 |
| Board Expenses | 9 | 1,958,750 |
| Tribunal Operational Expenses | 10 | 31,729,360 |
| Depreciation and amortization Expenses | 11 | 1,037,966 |
| Repair and Maintenance | 12 | 379,566 |
| Total expenses | | 41,325,467 |
| Deficit for the period | | (492,614) |

**NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE 2021**

XII. STATEMENT OF FINANCIAL POSITION AS AT 30TH JUNE 2021

| | Note | 2020-2021 |
|--|------|------------------|
| | | Kshs |
| Assets | | |
| Current Assets | | |
| Cash and cash equivalents | 13 | 345,352 |
| Receivables from Non-Exchange Transactions | | - |
| Total Current Assets | | 345,352 |
| Non-Current Assets | | |
| Property, Plants & Equipment | 14 | 3,169,036 |
| Total Assets | | 3,514,388 |
| Current liabilities | | |
| Trade and other Payables | | |
| Represented by; | | |
| Capital reserves | | 4,007,002 |
| Revenue reserve | | (492,614) |
| Total Net Assets & Liabilities | | 3,514,388 |

The Notes set on pages 6 to 22 form an integral part of the Financial Statements.

**Head of Finance
Duncan M. Kombo**

Sign.....
Date..... 27/05/2021

**Chief Executive Officer
Ms. Bellinda Akello**

Sign.....
Date..... 27/05/2021

**NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30th JUNE 2021**

XIII. STATEMENT OF CHANGES IN NET ASSETS FOR THE YEAR ENDED 30 JUNE 2021

| | Capital reserves | Revenue Reserves | Total |
|---|-----------------------------|-----------------------------|------------------|
| | Kshs | | Kshs |
| Cost of PPE as at 1st July 2020 | 4,007,002 | - | 4,007,002 |
| Deficit for the period 2020/2021 | - | (492,614) | (492,614) |
| Balance as at 30th June 2021 | 4,007,002 | (492,614) | 3,514,388 |

**NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE 2021**

XIV. STATEMENT OF CASHFLOWS FOR THE YEAR ENDED JUNE 30, 2021

| | | 2020-2021 |
|---|-----------|-------------------|
| | | Kshs |
| Cash flows from operating activities | | |
| Receipts | | |
| Government grants and subsidies | 5 | 40,772,442 |
| Other incomes | 6 | 60,411 |
| Total Receipts | | 40,832,853 |
| Payments | | |
| Use of Goods & Services | 7 | 2,379,652 |
| Employee costs | 8 | 3,840,183 |
| Board Expenses | 9 | 1,958,750 |
| Tribunal Expenses | 10 | 31,729,360 |
| Repairs and Maintenance | 12 | 379,556 |
| Total Payments | | 40,287,501 |
| Net cash flows from operating activities | 15 | 545,352 |
| Cash flows from investing activities | | |
| Purchase of property, plant, equipment | 14 | (200,000) |
| Net cash flows used in investing activities | | (200,000) |
| Cash flows from financing activities | | |
| Net cash flows used in financing activities | | |
| Net increase/(decrease) in cash and cash equivalents | | 345,352 |
| Cash and cash equivalents as at 1 July 2020 | | 0 |
| Cash and cash equivalents as at 30 JUNE 2021 | 13 | 345,352 |

**NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30th JUNE 2021**

**XV. STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS FOR THE
YEAR ENDED 30 JUNE 2021**

| | Original budget | Adjustments /Supplementary | Final budget | Actual on comparable basis | Performance difference | % Change |
|---|-------------------|----------------------------|-------------------|----------------------------|------------------------|----------|
| | 2020-2021 | 2020-2021 | 2020-2021 | 2020-2021 | 2020-2021 | |
| Revenue | Kshs | Kshs | Kshs | Kshs | Kshs | |
| Government grants and subsidies | 40,832,853 | | 40,832,853 | 40,832,853 | - | |
| Total in come | 40,832,853 | 40,832,853 | 40,832,853 | 40,832,853 | - | |
| Expenses | | | | | | |
| Goods and services | 36,832,853 | - | 36,832,853 | 36,447,318 | (385,525) | 0.01% |
| Compensation of employees | 4,000,000 | | 4,000,000 | 3,840,183 | 159,817 | 0.04% |
| Total expenditure | 40,832,853 | 40,832,853 | 40,832,853 | 40,287,501 | | |
| Provision for depreciation (adjustment) | | | | 1,037,966 | | |
| Deficit/surpluses for the period | - | - | - | (492,614) | | |

Explanation for significant variance.

1. 0.01% No material change
2. 0.04% No material change

NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE 2021

XVI. NOTES TO THE FINANCIAL STATEMENTS

1. General Information

The Tribunal is established by and derives its authority and accountability from the Environmental management and co-ordination Act 1999. The entity is wholly owned by the Government of Kenya and is domiciled in Kenya. The entity's principal activity is to hear and determine Appeals from the decisions of NEMA, KFS, KWS and their committees.

2. Statement of compliance and basis of preparation - IPSAS 1

The financial statements have been prepared on a historical cost basis except for the measurement at re-valued amounts of certain items of property, plant and equipment, marketable securities and financial instruments at fair value, impaired assets at their estimated recoverable amounts and actuarially determined liabilities at their present value. The preparation of financial statements in conformity with International Public Sector Accounting Standards (IPSAS) allows the use of estimates and assumptions. It also requires management to exercise judgment in the process of applying the entity's accounting policies. The areas involving a higher degree of judgment or complexity, or where assumptions and estimates are significant to the financial statements, are disclosed in Note 2. (r,i)&ii).

The financial statements have been prepared and presented in Kenya Shillings, which is the functional and reporting currency of the Institute.

The financial statements have been prepared in accordance with the PFM Act, the State Corporations Act and International Public Sector Accounting Standards (IPSAS). The accounting policies adopted have been consistently applied to all the years presented.

NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE 2021

NOTES TO THE FINANCIAL STATEMENTS (Continued)

3. Adoption of New and Revised Standards

- i. New and amended standards and interpretations in issue effective in the year ended 30 June 2021.*

| Standard | Impact: |
|-----------------------------|---|
| Other Improvements to IPSAS | <p>Applicable: 1st January 2021:</p> <p>a) Amendments to IPSAS 13, to include the appropriate references to IPSAS on impairment, in place of the current references to other international and/or national accounting frameworks.</p> <p>b) IPSAS 13, Leases and IPSAS 17, Property, Plant, and Equipment. Amendments to remove transitional provisions which should have been deleted when IPSAS 33, First Time Adoption of Accrual Basis International Public Sector Accounting Standards (IPSASs) was approved.</p> <p>c) IPSAS 21, Impairment of Non-Cash-Generating Assets and IPSAS 26, Impairment of Cash Generating Assets. Amendments to ensure consistency of impairment guidance to account for revalued assets in the scope of IPSAS 17, Property, Plant, and Equipment and IPSAS 31, Intangible Assets.</p> <p>d) IPSAS 33, First-time Adoption of Accrual Basis International Public Sector Accounting Standards (IPSASs). Amendments to the implementation guidance on deemed cost in IPSAS 33 to make it consistent with the core principles in the Standard.</p> |

NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE 2021

NOTES TO THE FINANCIAL STATEMENTS (Continued)

ii. New and amended standards and interpretations in issue but not yet effective in the year ended 30 June 2021.

| Standard | Effective date and impact: |
|---|--|
| IPSAS 41: Financial Instruments | <p>Applicable: 1st January 2023:</p> <p>The objective of IPSAS 41 is to establish principles for the financial reporting of financial assets and liabilities that will present relevant and useful information to users of financial statements for their assessment of the amounts, timing and uncertainty of an entity's future cash flows.</p> <p>IPSAS 41 provides users of financial statements with more useful information than IPSAS 29, by:</p> <ul style="list-style-type: none"> • Applying a single classification and measurement model for financial assets that considers the characteristics of the asset's cash flows and the objective for which the asset is held; • Applying a single forward-looking expected credit loss model that is applicable to all financial instruments subject to impairment testing; and • Applying an improved hedge accounting model that broadens the hedging arrangements in scope of the guidance. The model develops a strong link between an entity's risk management strategies and the accounting treatment for instruments held as part of the risk management strategy. |
| IPSAS 42: Social Benefits | <p>Applicable: 1st January 2023</p> <p>The objective of this Standard is to improve the relevance, faithful representativeness and comparability of the information that a reporting entity provides in its financial statements about social benefits. The information provided should help users of the financial statements and general purpose financial reports assess:</p> <p>(a) The nature of such social benefits provided by the entity;</p> |

NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE 2021

| Standard | Effective date and impact: |
|--|---|
| | (b) The key features of the operation of those social benefit schemes; and (c) The impact of such social benefits provided on the entity's financial performance, financial position and cash flows. |
| Amendments to Other IPSAS resulting from IPSAS 41, Financial Instruments | <p>Applicable: 1st January 2023:</p> <p>a) Amendments to IPSAS 5, to update the guidance related to the components of borrowing costs which were inadvertently omitted when IPSAS 41 was issued.</p> <p>b) Amendments to IPSAS 30, regarding illustrative examples on hedging and credit risk which were inadvertently omitted when IPSAS 41 was issued.</p> <p>c) Amendments to IPSAS 30, to update the guidance for accounting for financial guarantee contracts which were inadvertently omitted when IPSAS 41 was issued.</p> <p>Amendments to IPSAS 33, to update the guidance on classifying financial instruments on initial adoption of accrual basis IPSAS which were inadvertently omitted when IPSAS 41 was issued.</p> |

iii. Early adoption of standards

The entity did not early – adopt any new or amended standards in year 2020/2021.

a) Pronouncements from the Public Sector Accounting Standards Board (PSASB)

The Public Finance Management (PFM) Act 2012 Section 192 provided the setting up of the Public Sector Accounting Standards Board (PSASB). The Cabinet Secretary National Treasury, gazetted members of the Board through Gazette Notice No. 1199 of 28 February, 2014. Following the Board's approval on the adoption of the International Financial Reporting Standards (IFRS) for state organs operating as Commercial Business Entities and The International Public Sector Accounting Standards (IPSAS) for non-commercial entities, the Institute has adopted the pronouncements made by the IPSAS board in preparation of its current year financial statements. The Financial Statements have therefore been prepared in accordance with the Accrual basis of Accounting Method under the International Public Sector Accounting Standards (IPSAS)

NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE 2021

4. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

a) Revenue recognition

i) Revenue from non-exchange transactions

Fees, taxes and fines

The National Environment Tribunal (NET) recognizes revenues from fees, taxes and fines when the event occurs and the asset recognition criteria are met. To the extent that there is a related condition attached that would give rise to a liability to repay the amount, deferred income is recognized instead of revenue. Other non-exchange revenues are recognized when it is probable that the future economic benefits or service potential associated with the asset will flow to the entity and the fair value of the asset can be measured reliably.

Transfers from other government entities

Revenues from non-exchange transactions with other government entities are measured at fair value and recognized on obtaining control of the asset (cash, goods, services and property) if the transfer is free from conditions and it is probable that the economic benefits or service potential related to the asset will flow to the entity and can be measured reliably. Recurrent grants are recognized in the statement of comprehensive income. Development/capital grants are recognized in the statement of financial position and realised in the statement of comprehensive income over the useful life of the assets that has been acquired using such funds.

NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE 2021

NOTES TO THE FINANCIAL STATEMENTS (Continued)

a) Revenue recognition (Continued)

ii) Revenue from exchange transactions

Rendering of services

The NET recognizes revenue from rendering of services by reference to the stage of completion when the outcome of the transaction can be estimated reliably. The stage of completion is measured by reference to labour hours incurred to date as a percentage of total estimated labour hours.

Where the contract outcome cannot be measured reliably, revenue is recognized only to the extent that the expenses incurred are recoverable.

Sale of goods

Revenue from the sale of goods is recognized when the significant risks and rewards of ownership have been transferred to the buyer, usually on delivery of the goods and when the amount of revenue can be measured reliably and it is probable that the economic benefits or service potential associated with the transaction will flow to the entity.

Interest income

Interest income is accrued using the effective yield method. The effective yield discounts estimated future cash receipts through the expected life of the financial asset to that asset's net carrying amount. The method applies this yield to the principal outstanding to determine interest income each period.

b) Budget information

The original budget for FY 2020-2021 was approved by the National Assembly on 15th June, 2020. Subsequent revisions or additional appropriations were made to the approved budget in accordance with specific approvals from the appropriate authorities. The additional appropriations are added to the original budget by NET upon receiving the respective approvals in order to conclude the final budget. Accordingly, NET recorded

**NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE 2021**

SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

additional appropriations of 15th June, 2020 on the 2020-2021 budget following the governing body's approval.

The NET's budget is prepared on a different basis to the actual income and expenditure disclosed in the financial statements. The financial statements are prepared on accrual basis using a classification based on the nature of expenses in the statement of financial performance, whereas the budget is prepared on a cash basis. The amounts in the financial statements were recast from the accrual basis to the cash basis and reclassified by presentation to be on the same basis as the approved budget. A comparison of budget and actual amounts, prepared on a comparable basis to the approved budget, is then presented in the statement of comparison of budget and actual amounts.

In addition to the Basis difference, adjustments to amounts in the financial statements are also made for differences in the formats and classification schemes adopted for the presentation of the financial statements and the approved budget.

A statement to reconcile the actual amounts on a comparable basis included in the statement of comparison of budget and actual amounts and the actuals as per the statement of financial performance has been presented under page 1 of these financial statements.

c) Taxes

NET is not subject to government taxes

d) Property, plant and equipment

All property, plant and equipment are stated at cost less accumulated depreciation and impairment losses. Cost includes expenditure that is directly attributable to the acquisition of the items. When significant parts of property, plant and equipment are required to be replaced at intervals, the entity recognizes such parts as individual assets with specific useful lives and depreciates them accordingly. Likewise, when a major inspection is performed, its cost is recognized in the carrying amount of the plant and equipment as a replacement if the recognition criteria are satisfied. All other repair and maintenance costs are recognized in surplus or deficit as incurred. Where an asset is acquired in a non-exchange transaction for nil or nominal consideration the asset is initially measured at its fair value.

NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE 2021

SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

e) Intangible assets

Intangible assets acquired separately are initially recognized at cost. The cost of intangible assets acquired in a non-exchange transaction is their fair value at the date of

the exchange. Following initial recognition, intangible assets are carried at cost less any accumulated amortization and accumulated impairment losses. Internally generated intangible assets, excluding capitalized development costs, are not capitalized and expenditure is reflected in surplus or deficit in the period in which the expenditure is incurred.

The useful life of the intangible assets is assessed as either finite or indefinite.

f) Research and development costs

The NET expenses research costs as incurred. Development costs on an individual project are recognized as intangible assets when the NET can demonstrate:

- The technical feasibility of completing the asset so that the asset will be available for use or sale
- Its intention to complete and its ability to use or sell the asset
- How the asset will generate future economic benefits or service potential
- The availability of resources to complete the asset
- The ability to measure reliably the expenditure during development.

Following initial recognition of an asset, the asset is carried at cost less any accumulated amortization and accumulated impairment losses. Amortization of the asset begins when development is complete and the asset is available for use. It is amortized over the period of expected future benefit. During the period of development, the asset is tested for impairment annually with any impairment losses recognized immediately in surplus or deficit

h) Inventories

After initial recognition, inventory is measured at the lower of cost and net realizable value. However, to the extent that a class of inventory is distributed or deployed at no charge or for a nominal charge, that class of inventory is measured at the lower of cost and current replacement cost.

Net realizable value is the estimated selling price in the ordinary course of operations, less the estimated costs of completion and the estimated costs necessary to make the sale, exchange, or distribution

**NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE 2021**

SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continue)

Inventories are recognized as an expense when deployed for utilization or consumption in the ordinary course of operations of NET.

e) Provisions

Provisions are recognized when the Entity has a present obligation (legal or constructive) as a result of a past event, it is probable that an outflow of resources

embodying economic benefits or service potential will be required to settle the obligation and a reliable estimate can be made of the amount of the obligation.

Where the NET expects some or all of a provision to be reimbursed, for example, under an insurance contract, the reimbursement is recognized as a separate asset only when the reimbursement is virtually certain.

The expense relating to any provision is presented in the statement of financial performance net of any reimbursement.

Contingent liabilities

The Entity does not recognize a contingent liability, but discloses details of any contingencies in the notes to the financial statements, unless the possibility of an outflow of resources embodying economic benefits or service potential is remote.

Contingent assets

The Entity does not recognize a contingent asset, but discloses details of a possible asset whose existence is contingent on the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the Entity in the notes to the financial statements. Contingent assets are assessed continually to ensure that developments are appropriately reflected in the financial statements. If it has become virtually certain that an inflow of economic benefits or service potential will arise and the asset's value can be measured reliably, the asset and the related revenue are recognized in the financial statements of the period in which the change occurs.

f) Nature and purpose of reserves

The NET creates and maintains reserves in terms of specific requirements. Reserves which are retained earnings by NET

NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE 2021

SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continue)

g) Changes in accounting policies and estimates

The Entity recognizes the effects of changes in accounting policy retrospectively. The effects of changes in accounting policy are applied prospectively if retrospective application is impractical.

h) Employee benefits

Retirement benefit plans

The Entity provides retirement benefits for its employees and directors. Defined contribution plans are post-employment benefit plans under which an entity pays fixed contributions into a separate entity (a fund), and will have no legal or constructive obligation to pay further contributions if the fund does not hold sufficient assets to pay all employee benefits relating to employee service in the current and prior periods. The contributions to fund obligations for the payment of retirement benefits are charged against income in the year in which they become payable.

Defined benefit plans are post-employment benefit plans other than defined-contribution plans. The defined benefit funds are actuarially valued tri-annually on the projected unit credit method basis. Deficits identified are recovered through lump sum payments or increased future contributions on proportional basis to all participating employers. The contributions and lump sum payments reduce the post-employment benefit obligation.

performance.

i) Related parties

NET regards a related party as a person or an entity with the ability to exert control individually or jointly, or to exercise significant influence over NET, or vice versa. Members of key management are regarded as related parties and comprise the directors, the CEO and senior managers.

j) Cash and cash equivalents

Cash and cash equivalents comprise cash on hand and cash at bank, short-term deposits on call and highly liquid investments with an original maturity of three months or less, which are readily convertible to known amounts of cash and are subject to insignificant risk of changes in value. Bank account balances include amounts held at the Central Bank of Kenya and at various commercial banks at the end of the financial year. For the purposes of these financial statements, cash and cash equivalents also include short term cash imprests and advances to authorised public officers and/or institutions which were not surrendered or accounted for at the end of the financial year.

**NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE 2021**

k) Comparative figures

Where necessary comparative figures for the previous financial year have been amended or reconfigured to conform to the required changes in presentation.

l) Subsequent events

There have been no events subsequent to the financial year end with a significant impact on the financial statements for the year ended June 30, 2021.

**NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE 2021**

5. Transfers from other governments

| Description | 2020-2021 |
|--|-------------------|
| | Kshs. |
| Unconditional grants | |
| Operational grant | 40,772,442 |
| Total government grants and subsidies | 40,772,442 |

The details of the reconciliation have been included under appendix II)

6. Other Incomes

| Description | 2020-2021 |
|-----------------------------|---------------|
| | Kshs. |
| Opening Bank balance | 60,411 |
| Total other Incomes | 60,411 |

7. Use of Goods and Services

| Description | 2020-2021 |
|--------------|------------------|
| | Kshs |
| Hospitality | 283,600 |
| Supplies | 2,051,052 |
| Publicity | 45,000 |
| Total | 2,379,652 |

8. Employee costs

| Description | 2020-2021 |
|------------------|------------------|
| | Kshs. |
| Casuals' payment | 75,383 |
| Extraneous | 3,764,800 |
| Total | 3,840,183 |

NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE 2021

9. Board Expenses

| Description | 2020-2021 |
|-----------------------|------------------|
| | Kshs. |
| Sitting/Mileage claim | 1,958,750 |
| Subsistence | - |
| Travel | - |
| Total | 1,958,750 |

10. Tribunal Operational Expenses

| Description | 2020-2021 |
|------------------------|-------------------|
| | Kshs. |
| Travel & Accommodation | 18,968,710 |
| Other expenses | 12,760,650 |
| Total | 31,729,360 |

11. Depreciation and amortization expense

| Description | 2020-2021 |
|--|------------------|
| | Kshs. |
| Property, plant and equipment | 1,037,966 |
| Total depreciation and amortization | 1,037,966 |

12. Repairs and maintenance

| Description | 2020-2021 |
|--------------------------------------|----------------|
| | Kshs. |
| Vehicles | 379,556 |
| Total repairs and maintenance | 379,556 |

13. Cash and cash equivalents

| Description | 2020-2021 |
|--|----------------|
| | Kshs |
| Cash book balance | 345,352 |
| Cash on-hand and transit | - |
| Total cash and cash equivalents | 345,352 |

Cash and cash equivalents comprise cash on hand and cash at bank, short-term deposits on call and highly liquid investments with an original maturity of three months or less, which are readily convertible to known amounts of cash and are subject to insignificant risk of changes in value. Bank account balances include amounts held at the Central Bank of Kenya and at various commercial banks at the end of the financial year. For the purposes of these financial statements, cash and cash equivalents also include short term cash imprests and advances to authorised public officers and/or institutions which were not surrendered or accounted for at the end of the financial year.

NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE 2021

13 b. Detailed analysis of the cash and cash equivalents

| | | 2020-2021 |
|------------------------------------|----------------|----------------|
| Financial institution | Account number | KShs |
| a) Current account | | |
| Kenya Commercial bank | 1102293830 | 345,352 |
| Sub- total | | -- |
| COMMUNITY BRANCH | | |
| b) On – call deposits | | |
| Sub- total | | |
| c) Fixed deposits account | | |
| Sub- total | | |
| d) Staff car loan/ mortgage | | |
| Sub- total | | |
| e) Others(specify) | | |
| cash in hand | | - |
| Sub- total | | - |
| Grand total | | 345,352 |

14. A Property, Plant and Equipment

| | Land and Buildings | Motor vehicles | Furniture and fittings | Computers | Total |
|---------------------------------------|--------------------|-------------------|------------------------|------------------|-------------------|
| Property, plant and equipment | | 25% | 12.50% | 33.30% | |
| Cost | Shs | Shs | Shs | Shs | |
| At 1 st July 2020 | - | 12,535,567 | 3,536,529 | 3,980,685 | 20,052,781 |
| Adjustment | | | 778,100 | 1,524,300 | 2,302,400 |
| Total Cost As At July 2020 | | 12,535,567 | 4,314,629 | 5,504,985 | 22,355,181 |
| Addition | - | - | - | 200,000 | 200,000 |
| At 30th June 2021 | - | 12,535,567 | 4,314,629 | 5,704,985 | 22,555,181 |
| Depreciation and impairment | | | | | |
| As at 1 st July 2020 | - | 11,135,862 | 3,128,138 | 4,084,179 | 18,348,179 |
| Charge for the year | - | 349,926 | 148,311 | 539,728 | 1,037,965 |
| Accumulated as at 30 JUNE 2021 | - | 11,485,788 | 3,276,449 | 4,623,907 | 19,386,144 |
| Net book values | | | | | |
| At 30th June 2021 | - | 1,049,778 | 1,038,180 | 1,081,078 | 3,169,036 |

NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE 2021
14.B NET Depreciation Computation for Year 2020-2021

| | Motor Vehicles | Furniture and fittings | Computers | Total |
|------------------------------|-----------------------|-------------------------------|------------------|-------------------|
| Cost at June 2020 | 12,535,567 | 4,314,629 | 5,514,985 | 22,355,181 |
| Depreciation as at June 2020 | 11,135,862 | 3,128,138 | 4,084,179 | 18,348,179 |
| NBV 2020 | 1,399,705 | 1,186,491 | 1,420,806 | 4,007,002 |
| Rate | 25% | 12.50% | 33.30% | |
| Depreciation Charge | 349,926 | 148,311 | 539,728 | 1,037,965 |

15. Cash Generated from Operations

| | 2020-2021 |
|--|------------------|
| | Kshs. |
| Surplus for the period | (492,614) |
| Adjusted for – depreciation | 1,037,966 |
| Provision for audit fee | - |
| Working capital | |
| Decrease in receivables | |
| Net cash flow from operating activities | 545,352 |

16. Financial Risk Management

The entity's activities expose it to a variety of financial risks including credit and liquidity risks and effects of changes in foreign currency. The company's overall risk management programme focuses on unpredictability of changes in the business environment and seeks to minimise the potential adverse effect of such risks on its performance by setting acceptable levels of risk. The company does not hedge any risks and has in place policies to ensure that credit is only extended to customers with an established credit history.

The company's financial risk management objectives and policies are detailed below:

NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE 2021

(i) Credit risk

The entity has exposure to credit risk, which is the risk that a counterparty will be unable to pay amounts in full when due. Credit risk arises from cash and cash equivalents, and deposits with banks, as well as trade and other receivables and available-for-sale financial investments.

Management assesses the credit quality of each customer, taking into account its financial position, past experience and other factors. Individual risk limits are set based on internal or external assessment in accordance with limits set by the directors. The amounts presented in the statement of financial position are net of allowances for doubtful receivables, estimated by the company's management based on prior experience and their assessment of the current economic environment.

The carrying amount of financial assets recorded in the financial statements representing the entity's maximum exposure to credit risk without taking account of the value of any collateral obtained is made up as follows:

The customers under the fully performing category are paying their debts as they continue trading. The credit risk associated with these receivables is minimal and the allowance for uncollectible amounts that the company has recognised in the financial statements is considered adequate to cover any potentially irrecoverable amounts.

The board of directors sets the company's credit policies and objectives and lays down parameters within which the various aspects of credit risk management are operated.

(ii) Liquidity risk management

Ultimate responsibility for liquidity risk management rests with the entity's directors, who have built an appropriate liquidity risk management framework for the management of the entity's short, medium and long-term funding and liquidity management requirements. The entity manages liquidity risk through continuous monitoring of forecasts and actual cash flows.

The table below represents cash flows payable by the company under non-derivative financial liabilities by their remaining contractual maturities at the reporting date. The amounts disclosed in the table are the contractual undiscounted cash flows. Balances due within 12 months equal their carrying balances, as the impact of discounting is not significant.

NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE 2021

(iii) Market risk

The board has put in place an internal audit function to assist it in assessing the risk faced by the entity on an ongoing basis, evaluate and test the design and effectiveness of its internal accounting and operational controls. Market risk is the risk arising from changes in market prices, such as interest rate, equity prices and foreign exchange rates which will affect the entity's income or the value of its holding of financial instruments. The objective of market risk management is to manage and control market risk exposures within acceptable parameters, while optimising the return. Overall responsibility for managing market risk rests with the Audit and Risk Management Committee.

The company's Finance Department is responsible for the development of detailed risk management policies (subject to review and approval by Audit and Risk Management Committee) and for the day-to-day implementation of those policies.

There has been no change to the entity's exposure to market risks or the manner in which it manages and measures the risk.

The objective of the entity's capital risk management is to safeguard the Board's ability to continue as a going concern. The entity capital structure comprises of the following funds:

| | 2020-2021 |
|---|------------------|
| | Kshs |
| Revaluation reserve | - |
| Retained earnings | 4,007,002 |
| Capital reserve | |
| Total funds | 4,007,002 |
| Total borrowings | |
| Less: cash and bank balances | 345,352 |
| Net debt/ (excess cash and cash equivalents) | 345,352 |
| Gearing | 3,661,650 |

17. Events After the Reporting Period

There were no material adjusting and non-adjusting events after the reporting period.

18. Ultimate and Holding NET

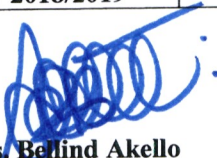
The NET is a state corporation/or a Semi-Autonomous Government Agency under the Ministry of Environment and Forestry. Its ultimate parent is the Government of Kenya

**NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE 2021**

XVII. Appendix I: PROGRESS ON FOLLOW UP OF 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.

| 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.) |
|--|---------------------------------|---------------------|--|---------------------------------|---|
| Audit Report 2018/2019 | None | None | Nil | None | Nil |


Ms. Bellind Akello
Chief Executive Officer

Date 27/05/2022

**NATIONAL ENVIRONMENT TRIBUNAL
FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE 2021**


XVIII. Appendix II: INTER-ENTITY TRANSFERS

| | | |
|--|----------------------------|--|
| ENTITY NAME: NATIONAL ENVIRONMENT TRIBUNAL | | |
| Break down of Transfers from the MINISTRY OF ENVIRONMENT & FORESTRY | | |
| FY 2020/2021 | | |
| | | |
| A | Recurrent Grants | |
| | Bank Statement Date | Amount (KShs) |
| | | Indicate the FY to which the amounts relate |
| | 01/07/2020 | 60,411 |
| | 08/08/2020 | 2,543,110 |
| | 09/11/2020 | 2,543,110 |
| | 10/01/2021 | 2,543,110 |
| | 05/05/2021 | 33,143,112 |
| | Total | 40,832,853 |

The above amounts have been communicated to and reconciled with the parent Ministry

**Head of Accounting Unit
Ministry of Environment & Forestry**

Sign



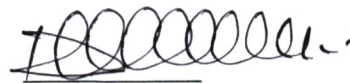
Date

27/05/2022

Head of Accounts

NET

Sign



Date

27/05/2022