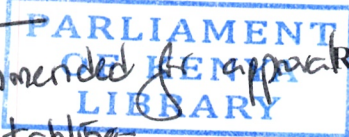


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8/05/11/19



REPUBLIC OF KENYA



PARLIAMENT

THE SENATE

TWELFTH PARLIAMENT

THIRD SESSION

DC-EG
Recommended & forwarded
8/05/11/19

SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES

REPORT OF THE PETITION BY RESIDENTS OF KAJIADO COUNTY
CONCERNING ADVERSE ENVIRONMENTAL AND SOCIAL EFFECTS ARISING
FROM THE CONSTRUCTION OF PHASE 2A OF THE STANDARD GAUGE
RAILWAY (NAIROBI – NAIVASHA SECTION)

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

OCTOBER, 2019

List of Abbreviations/ Synonyms

1. CAEC - CRDC-APEC-EDON Consortium
2. CCCC - China Communication Construction Company (Contractor)
3. C-ESMP - Contractor's Environmental and Social Management Plan
4. CS - Cabinet Secretary
5. CSR - Community Social Responsibility
6. EIA - Environmental Impact Assessment
7. EMP - Environmental Management Plan
8. EPC - China Communication Construction Company
9. ESIA - Environmental and Social Impact Assessment
10. ESMP - Environmental and Social Management Plan
11. KFS - Kenya Forest Service
12. KR - Kenya Railways
13. KWS - Kenya Wildlife Service
14. MOLPP - Ministry of Lands & Physical Planning
15. NEMA - National Environment Management Authority
16. NLC - National Land Commission
17. NNP - Nairobi National Park
18. RAP - Resettlement Action Plan
19. RoW - Right of Way
20. SGR - Standard Gauge Railway
21. WRMA - Water Resource Management Authority/ Water Resources Authority

PREFACE

Mr. Speaker sir,

The Standing Committee on Lands, Environment and Natural Resources is established pursuant to Standing Order No. 218(3) of the Senate Standing Orders. As set out in the Second Schedule, the Committee's assigned subject matter is to consider all matters relating to lands and settlement, housing, environment, forestry, wildlife, mining, water resource management and development.

Committee Membership

- | | |
|------------------------------------|--------------------|
| 1. Sen. Mwangi Paul Githiomi, M.P. | - Chairperson |
| 2. Sen. Prengei Victor, M.P. | - Vice Chairperson |
| 3. Sen. George Khaniri, MGH, M.P. | - Member |
| 4. Sen. Godana Hargura, M.P. | - Member |
| 5. Sen. Mwaruma Johnes, M.P. | - Member |
| 6. Sen. Sylvia Kasanga, M.P. | - Member |
| 7. Sen. Ndwiga Peter Njeru, M.P. | - Member |
| 8. Sen. Halake Abshiro, M.P. | - Member |
| 9. Sen. Boy Issa Juma, M.P. | - Member |

I am pleased to present and table the Committee's report on the petition submitted through the Clerk, by concerned residents of Kajiado County, namely Sen. (Eng.) Peter Mositet, Florence Gatwiri, Judith Karamana, Mathew Mwikya, Richard Leiyagu, Farida Tarus, Dorina Prech and Makumbe Goodknows. This report contains the determined prayers of the petitioners and the recommendations.

The petitioners submitted their prayers in line with Articles 37 and 119 of the Constitution and guided by the provisions of the *Petition to Parliament (Procedure) Act* and the *Senate Standing Orders*.

The Petitioners prayed that the Senate urgently investigates this matter and makes appropriate recommendations thereon. Among the proposals made by the Petitioners is that the Senate –

- i) Directs the phase 2A contractor, as part of its corporate social responsibility, to rehabilitate roads, schools and other infrastructure which have been adversely affected by the ongoing construction;
- ii) Directs the phase 2A contractor to build water reservoirs to compensate for the adverse effects of tunneling along the SGR route in Kajiado County, which has affected the existing streams and underground reservoirs in the area; and
- iii) Directs the phase 2A contractor to put appropriate measures in place to ensure that air and noise pollution levels from the project are significantly reduced.

The Petition

Pursuant to the Senate Standing Orders No. 226 (1) and 230 (2) (b), the Speaker of the Senate reported to the House a petition presented through the Clerk of the Senate by concerned residents of Kajiado County, namely Sen. (Eng.) Peter Mositet, Florence Gatwiri, Judith Karamana, Mathew Mwikya, Richard Leiyagu, Farida Tarus, Dorina Prech and Makumbe Goodknows. Pursuant to standing order 226(1), the petition stood committed to the Standing Committee on Land, Environment and Natural Resources.

The Committee undertook to investigate and determine the prayers of the petitioners pursuant to Senate Standing Order No. 226. It received submissions from the Petitioners and various key stakeholders including the Ministry of Transport, Infrastructure, Housing and Urban Development, Kenya Railways, Ministry of Environment and Forestry, National Environment Management Authority, National Land Commission and the TSDI-APEC-EDON Consortium (hereinafter “the Consortium”).

ACKNOWLEDGEMENT

The Committee wishes to acknowledge the time and considerable effort made by all parties who volunteered information before it. I also wish to express my gratitude to my colleagues for their thoughtful and considerate contributions to the matter. Further the Committee is indebted to the Office of the Speaker and the Clerk of the Senate for facilitating the work of the Committee in undertaking its constitutional mandate. We also wish to recognize the commitment and dedication of the Committee Secretariat that made the work of the Committee and the production of this report possible.

Mr. Speaker Sir,

It is now my pleasant duty to table the report of the Senate Standing Committee on Land, Environment and Natural resources in relation to the Petition by residents of Kajiado County on the adverse environmental and social effects arising from the construction of phase 2A of the standard gauge railway (Nairobi – Naivasha section).

Signed: _____



Date: _____

23-10-2019

SEN. MWANGI PAUL GITHIOMI, M.P. - CHAIRPERSON

**SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES**

CHAPTER I

INTRODUCTION

1.0 The right to petition

The right of Kenyan citizens to petition public authorities and Parliament is a right conferred by the Constitution under Articles 37 and Article 119 of the Constitution and by the *petition to Parliament (Procedure) Act* as well as the *Standing Orders* of Senate. The right to petition is an essential citizen participatory tool, as it provides an avenue for the Members of Parliament and citizens to interact with the issues that concern citizens, and also demonstrates that Parliament is prepared to directly intervene on the issues of concern in order to promote and protect the rights of the citizens.

1.1 Background to the Petition

Pursuant to Senate standing Order 226 (1), the petition which was presented and submitted, through the Clerk, by concerned residents of Kajiado County, namely Sen. (Eng.) Peter Mositet, Florence Gatwiri, Judith Karamana, Mathew Mwikya, Richard Leiyagu, Farida Tarus, Dorina Prech and Makumbe Goodknows, was committed to the Standing Committee on Land, Environment and Natural resources for consideration and determination.

The petitioners raised the following salient issues in their petition:

1. That the construction of phase 2A of the Standard Gauge Railway (SGR) is presently ongoing, with sections of the route passing through Kajiado County. The Petitioners were however concerned that the Consortium was leading from behind and have not done any due diligence to certify that the project was devoid of any harm to the environment and the people living along the construction areas.
2. That meaningful public participation was not undertaken prior to the commencement of construction of the phase 2A of the SGR, which deprived affected communities of the chance to express themselves on the issue.

3. That compensation of affected persons and communities along the SGR route has been inadequate and has ignored the devaluation effect to properties along the route. Value of land around the route has tremendously reduced as a result of the SGR construction. There also seems to be irregular compensation for land on the SGR route, with delays in compensating legitimate claims.
4. That the construction of phase 2A of the SGR has caused serious adverse effects to the environment and the communities along the SGR route, including air and noise pollution, damage to buildings adjacent to the quarries, diversion of waterways and underground reservoirs as a result of tunnelling, water pollution, and increased human-wildlife conflicts.
5. There was no NEMA report on the adverse effects by the project.

CHAPTER 2

APPROACH OF THE COMMITTEE

The Members of the Committee sifted through the issues raised by the petitioner and analyzed the issues to be determined from the prayers of the petitioners. The Committee invited Ministry of Transport, Infrastructure, Housing and Urban Development, Kenya Railways, Ministry of Environment and Forestry, National Environment, Management Authority, National Land Commission and the Consortium.

The Committee also invited the petitioners and gave an opportunity to other residents of Kajiado interested in making submissions on the Petition to provide further information to help determine the prayers.

The Committee further conducted a site visit to the entire project from Kajiado to Naivasha on 26th and 27th April, 2019.

The objective of the Committee was to obtain as much information and facts on the subject matter so as to reply to the prayers of the petitioners conclusively and make recommendations on all issues pertaining to the petition.

2.1 Committee Proceedings

i. Deliberative sessions

In the exercise of its mandate, the Committee held deliberative sessions with the following:

- (a) Ministry of Transport, Infrastructure, Housing and Urban Development,
- (b) Kenya Railways,
- (c) Ministry of Environment and Forestry,
- (d) National Environment, Management Authority,
- (e) National Land Commission and
- (f) TSDI-APEC-EDON Consortium.

ii. Documents review

The Committee reviewed documents presented to it by the petitioner and they are annexed in this report (Annex II). Among the annexes presented were;

- a) Petitioner's presentation,

- b) Environmental Impact Assessment reports, and
- c) NEMA license

iii. Site Visit to Kajiado and Nakuru Counties, (Site inspection of the construction of phase 2A of the SGR Kajiado – Naivasha Section)

The Committee began its visit by driving along the Railway from the Nairobi National Park, engaging stakeholders throughout the route. The Committee observed that unlike the Tsavo part of the SGR where there are embankments and landfills which have to a large extent completely blocked some wildlife migratory and dispersal areas, the design of the 2A is friendlier to animal crossing and free migration of animals.





Figure 1: Residents of Kajiado County and the Petitioners together with stakeholders from various government agencies and Ministries on 26.4.2019. (Kajiado County)

The Committee also visited quarries that were left open and required rehabilitation as they posed as risks to the residents living in those areas.

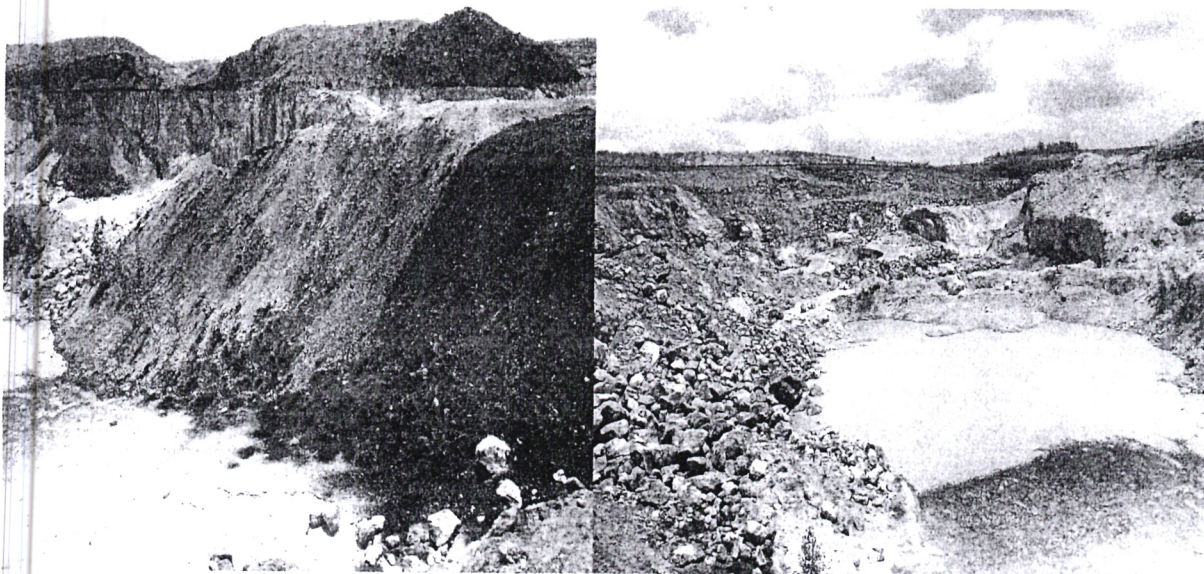


Figure 2: Quarry left open in Kajiado County by the developers of SGR on 26.4.2019. (Kajiado County)

The other important matter that the Committee was able to ascertain is that there are a number of houses that are outside the distance meant for compensation and were indeed affected by the explosions and dust and required compensation for destruction to their properties.



Figure 3: A house that was affected by the blasting of rocks in the path of the railway with cracks appearing in the houses on 26.4.2019. (Kajiado County)

The Committee also observed that the underpasses that were constructed were filled by water and the roads along the underpasses needed to be reworked.

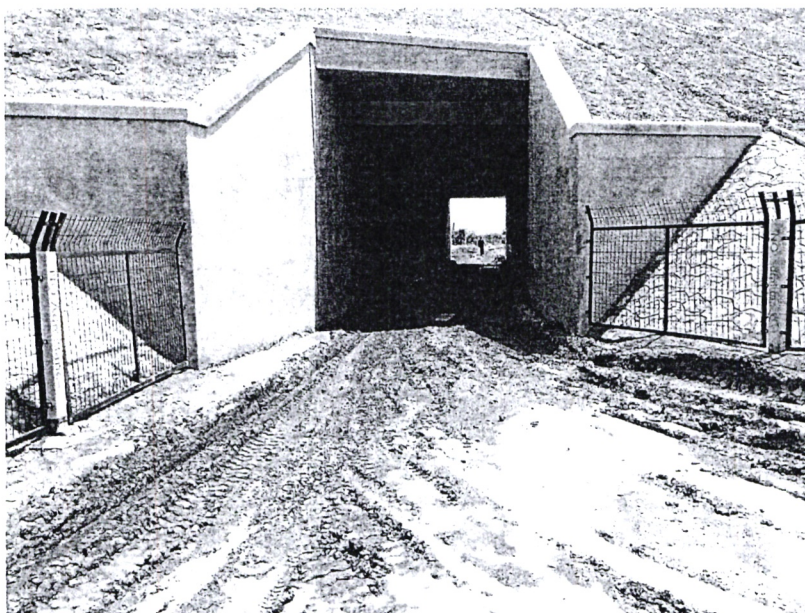


Figure 4: An underpass with poor drainage as observed on 26.4.2019. (Kajiado County)

The Committee noted the drying up of water sources like Kerarapon Springs which is a source of water serving both Nairobi and Kajiado Counties and their environs.

The Committee further visited a quarry where quarrying was proceeding and the locals alleged that the quarry belonged to the Community although it was maintained by the Ministry of Agriculture, Livestock, Fisheries and Irrigation. The Committee undertook to look into the matter and recommend actions accordingly.

CHAPTER 3

SUBMISSIONS TO THE COMMITTEE

This section contains the summaries of the submissions made to the Committee during the sessions and other documents submitted.

3.1 Submissions by the Petitioners

The petitioner submitted as follows-

1. **THAT** the construction of phase 2A of the Standard Gauge Railway (Nairobi- Naivasha) is currently ongoing with sections of the route passing through Kajiado County.
2. **THAT** the construction of phase 2A of the SGR has caused serious adverse effects to the environment and the community along which the route is passing.
3. **THAT** some of the adverse effects include:
 - (a) air pollution from dust from quarries such as Ole nina farm in kisamis, Enkusero Sampu, and Ngong Veterinary farm where raw materials for the SGR construction are sourced from;
 - (b) noise pollution from blasts from the aforesaid quarries;
 - (c) damages (cracking) to the roads and structures adjacent to the quarries arising from vibrations and tremors caused by loud blasts in the quarries;
 - (d) diversion of water flowing to water reservoirs, springs, streams and underground reservoirs as a result of tunneling;
 - (e) water pollution of streams, springs, rivers and other water reservoirs by chemicals used to soften the rocks before blasting and residuals in the cleaning water of the tunneling equipment; and
 - (f) increase of human-wildlife conflicts.

4. **THAT** meaningful public participation was not carried out prior to the commencement of the construction of phase 2A of the Standard Gauge Railway therefore depriving affected communities the chance to express themselves on the issue.
5. **THAT** compensation of affected persons has been inadequate as it has either failed and/or ignored the devaluation effect of properties along the route.
6. **THAT** there is a proposal to electrify the Standard Gauge Railway thus there would be instillation of electric lines along the route. This would entail additional acquisition of land and affect the use and potential of the adjacent land.
7. **THAT** the right to a clean and healthy environment is enshrined in the constitution.
8. **THAT** the state has an obligation to ensure sustainable exploitation, utilization, management and conservation of the environment and natural resources.
9. **THAT** efforts were made to have these matters addressed by the relevant authorities all which failed to give a satisfactory response.
10. **THAT** none of the issues raised in the Petition is pending in any court of law, constitutional or any other body.

The petitioners prayed that the Senate -

1. Directs the Kenya Railways Corporation and the China Roads and Bridges Corporation to refurbish and maintain Rimpa-Nazarene road, Kiserian and Saikeri road Ngong to bitumen standards;
2. Directs China Roads and Bridges Corporation as part of its Corporate Social Responsibility to repair dilapidated school structures and build new structures in Arap Moi Primary School, Ongata Rongai Primary School, Kiserian Primary School, Ngong Primary and Ololua Primary which have been adversely affected by the ongoing construction;
3. Directs the Kenya Railways Corporation and the China Roads and Bridges to build water reservoirs to compensate for the adverse effects of tunneling in the affected areas and re-open all springs and streams in Ngong Hills;

4. Directs the Kenya Railways Corporation and the China Roads and Bridges to treat and dispose of waste from the construction sites in an environmental friendly manner to avoid negatively impacting on the quality of water in streams, springs and reservoirs;
5. Directs the Kenya Railways Corporation to compensate affected residents while taking into account the devaluing effect that the railway route is going to have on adjacent properties;
6. Directs the Kenya Railways Corporation and the China Roads and Bridges Corporation to enter into way leaves agreement as a form of compensation to persons affected in case of electrification of the standard gauge railway;
7. Directs the Kenya Railways Corporation and the China Roads and Bridges to put measures in place to ensure that air and noise pollution levels are considerably reduced as well as promote and embark on a reforestation campaign;
8. Directs the Kenya Railways Corporation and the China Roads and Bridges Corporation in corporation with relevant agencies to put in place measures to mitigate against human-wildlife conflict.
9. Directs the Kenya Railways Corporation and the China Roads and Bridges Corporation to undertake meaningful and structured public consultations going forward;
10. Directs the Kenya Railways Corporation and the China Roads and Bridges Corporation to re-evaluate the list of its project consultants in light of clear gaps and lapses in environmental management that has occasioned environmental degradation.

3.2 Submissions by the Ministry of Transport, Infrastructure, Housing and Urban Development and the Kenya Railways Corporation

The Ministry of Transport, Infrastructure, Housing and Urban Development and the Kenya Railways Corporation analyzed and categorized matters raised in the Petition into 4 categories:

- i). Social Concerns;
- ii). Environmental Concerns;

- iii). Land Acquisition Concerns; and
- iv). Requests by the Petitioners.

(i) Social Concerns;

Public Participation

Under the Constitution of Kenya, public participation is prioritized to improve good governance by ensuring that citizen or community exchange views and influence decision making process. The petitioners are concerned that public participation was not carried out prior to construction of the Nairobi Naivasha SGR and allegedly deprived affected communities the chance to express themselves. In respect to the Constitution and internationally accepted guiding principles of project implementation, public participation forums were undertaken during the:

- i). SGR Phase 2A Environmental Social Impact Assessment (ESIA) process for the entire corridor.
- ii). SGR phase 2A Resettlement Action Plan (RAP) process.

The locations and dates for the meetings done for the above important process was publicly advertised and all parties were allowed to give their concerns.

There has been a series of interactive meetings with the meetings in all Sections with the workers on need basis on employment issues, local content, addressing grievances amongst others. The composition of the committees involves local community representatives, representatives from office of County Commissioner, elected leaders, Kenya Railways Liaison officers, SGR Consultant, EPC Contractor along with other interested stakeholders.

In order to improve project and community information exchange, SGR Consultant, EPC Contractor and Kenya Railways have dedicated field liaison officers for every SGR construction Section and counties who liaise with the locals on daily basis and report back to the project management in case of any issue related to SGR.

Damage to properties

The petitioners raised the issue of damage (cracking) to the roads and structures adjacent to the quarries. Some impacts to properties and structures have been noted especially in areas around material sites such as quarries and crushers and cut sections as a result of blasting and vibration due to SGR works. In order to remedy the damages to the nearby structures, the following actions have been taken:

- i). Instruction to the EPC Contractor to reduce the number of explosives used in a single blasting activity;
- ii). A baseline survey has been conducted by registered property Valuers (ICON Valuers) through the Contractor to identify structures and other features within 300m from the right of way;
- iii). In case of damage, due compensation is done by EPC Contractor depending on merit of each case. A tracking list is prepared for all complaints for monitoring; and
- iv). Temporary relocation of households near material sites such as quarries.

(ii) Environmental Concerns;

Air Pollution

The petition cited adverse effects of air pollution from quarries such as Nina farm in Kisamis, Enkusero Sampu (Ilngarooj quarry) and Ngong Veterinary Farm where ballast is sourced. However, the quarry at Ngong Veterinary Farm does not belong to the SGR project, the only activities in this area for SGR are tunneling activities.

SGR construction activities involve massive earthworks and mobilization of hard stone aggregate (ballast) from various quarry sites which may lead to air pollution. The main sources of air pollution are dust from quarries, borrow pits, construction of access roads and cement batching plants.

Measures have been continuously taken to mitigate air pollution across the whole corridor. The contractor has constantly been watering all construction roads to ensure minimum dust emission, along with erection of speed bumps and strict monitoring of construction vehicle

speed limits. The contractor has also controlled emissions from quarry sites by installing dust arresters in all quarry sites. Also, through the local administration, households in the vicinity of quarries are identified and relocated temporarily until all activities are completed.

Noise and Vibrations

Noise pollution has been experienced during construction of Phase 2A. It is therefore appreciated when the petitions raised concerns of adverse effects of noise pollution from among the quarries in Kisamis Quarry and Iingarooj quarry. Other areas with noise and vibration challenges include:

- i). Areas of cutting and excavations along the corridor;
- ii). Blasting activities and crushing in other quarry sites;
- iii). Blasting through tunnels that is determined by the rock regimes; and
- iv). Pilling works for bridges and from major culverts construction, as well as blasting for the tunnel works.

The Consultant prevails upon the Contractor to ensure application of right explosives technologies and strengths (low noise explosives), and avoid any blasting at night in habited areas. Contractor has also issued personal protective equipment for workers in excessive noise areas. Notices and warnings are as well provided to the public on anticipated unusual noise or vibration activities during construction.

Intensive monitoring is being enhanced through the supervision including imposing appropriate penalties for non-compliances.

Water Pollution

The petitioners have raised the issue of water pollution of streams, springs and other water reservoir around the tunnel area from chemicals associated with blasting. In respect to the above, it should be noted that there is no chemical to soften rocks that is used inside the tunnel. Blasting inside the tunnel is highly controlled and minimal explosives are used.

Further to that, there are at least 3 water ponds whereby any water seeping into the tunnel is discharged into. Regular water testing is done to ensure that any water from the tunnel is fit to be released into the environment. Test results reveal that there are no chemicals and the water is within domestic requirements. Once the tunnel is complete, it will be water proof and therefore no seepage of water into the tunnel. Any waste water from cleaning of construction machinery is also held in a dedicated pond and is regularly tested for pollutants. They have annexed the sample water test results.

Waste Management

The petitioners have requested for treatment and disposal of waste from the construction sites in an environmentally friendly manner to avoid negatively impacting the quality of water in streams, springs and reservoirs. Domestic and construction waste are produced from the camp sites and construction sites respectively. To prevent the contamination of soils and water resources, waste management systems are employed for these areas.

For domestic waste management in camp sites, installation of septic tanks for effluence and waste collection pits are observed. The collection and disposal of the effluence and solid waste in approved, dedicated locations is conducted regularly by certified waste collectors. Other waste water is treated and tested before it is discharged into the environment, to ensure it is safe enough for irrigation and to water livestock.

To manage sewage and effluence in construction sites, portable toilets are provided and regularly emptied and cleaned by the certified service provider. Strategically located waste bins are placed on site and regularly emptied and cleaned, and waste disposed of in dedicated locations by certified waste collectors. The enforcement of waste management is implemented by the Contractor and strictly monitored by Kenya Railway's Project Consultant.

Human Wildlife Conflicts

The petitioners have raised the issue of increased human — wildlife conflict in Kajiado County. The issue in the petition has been stated vaguely and therefore it is assumed that it was raised due to construction works in Nairobi National Park (NNP) and other wildlife

inhabited areas where normal movement of animals have been interfered with leading wildlife to stray into human habited zones. One of the anticipated impacts before the commencement of construction works in wildlife inhabited areas was the possibility of wildlife intruding into neighboring settlements (e.g. Tuala). This was anticipated to be from the increased human presence, noise and vibration impacts from the construction works site.

As a result, a jointly approved Programme of Works (between KR, KWS, CAEC and CCCC) has been developed for NNP and other wildlife inhabited areas to balance construction works with the needs of conservation, and to minimize human-wildlife conflict. Strict hours of work have been established (6am - 6pm) with special permission sought for works that have to be conducted at night so that monitoring and security can be increased by KWS. Susceptible areas have as well been identified for fence upgrading (from East Gate to Maasai Comer). Further, daily monitoring of the fence functionality around the Park is conducted by KWS. Overall, the SGR Project team works closely with KWS who monitor the movement of wildlife and implement their Emergency Response Plans for situations of human wildlife conflict.

Diversion of Waterways

The petitioners argue that as a result of tunneling and SGR construction, the water flowing to water reservoirs such as springs, wells and boreholes has been diverted. In response to this issue, the contractor commissioned a Hydro-geology study for the tunnel to evaluate any impacts to water reservoirs such as Kerarapon springs. The study found no direct impact to the recharge of Kerarapon springs from the SGR tunnel. Any water reservoir such as boreholes which are within SGR right of way will be compensated under RAP process. Any boreholes outside the right of way have been assessed under baseline report and any damages will be quantified and compensated accordingly.

It is also worth noting that there is no spring or river that has been diverted permanently from its natural cause. Bulbul River at DK 34 has been temporarily diverted for pier construction and will be returned to its natural course once works are completed. In case of any need to divert any river, permission will be sought from responsible agencies such as the Water Resource Authority (WRA) and NEMA.

Management and Conservation of Environment and Natural Resources

The petitioners raised the issue on sustainable exploitation, utilization, management and conservation of the environment and natural resources. This is assumed to be in relation to material sites for construction, as well as protected areas on the alignment that passes through Nairobi National Park (NNP) and Ololua Forest.

Once the contractor identifies a location for a material site (quarry, crusher or borrow pit), he follows the due processes by having an EIA study conducted for the site, which is then submitted to NEMA who issue a license upon approval. The contractor then implements the measures highlighted in the EMP and conditions of the NEMA license to ensure minimal social and environmental impacts from the works. Impacts, implementation of mitigation measures and enforcement of the NEMA license conditions are closely monitored by the supervision team, CAEC. Upon completion of the works, a NEMA approved decommissioning plan is followed by the Contractor and supervised by the Consultant to ensure proper closure of the material site and restoration as much as possible to its former state.

Strict comprehensive procedures are followed before commencement of works in protected areas (i.e. Nairobi National Park and Ololua Forest). The sensitivity of these ecosystems is acknowledged before commencement of construction. ESIA studies of the areas are undertaken by ESIA experts, as well as baseline studies of the inventory of flora and fauna in the proposed sites by the custodians of the protected areas (KWS and KFS). From these reports, stringent programme of Works and EMP(s) are formulated which the Contractor implements, along with the conditions of the NEMA license(s) and Grant of Easement agreement(s). Enforcement of these vital requirements are monitored and supervised by the Consultant to ensure minimization or elimination of environmental and social impacts in these ecosystems.

(iii) Land Acquisition Concerns;

Compensation for Land, Improvements and Livelihoods

The petitioners stated that compensation of affected persons has been inadequate and it has ignored the potential devaluation effect of properties along the SGR route. Kenya Railways has undertaken a Resettlement Action Plan to guide the land acquisition process. The role of KR in the process of land acquisition is to submit coordinates of the required right of way for acquisition and also monitoring the impacts associated with land acquisition. The actual compensation process is undertaken by the NLC.

Railway Electrification

The petitioners stated that there is a proposal to electrify the SGR thus there would be installation of electric lines along the route. It is assumed that this issue was raised from anticipation of additional land acquisition for erection of the power poles. It should also be noted that, in case of any future electrification of the SGR, the electrification process and structures involved is catered for in the acquired right of way (RoW). Due process of land acquisition and easement agreement will be followed incase extra land is required or SGR related structures traverses through any other land away from the SGR Corridor.

(iv) Requests by the Petitioners.

Roads Maintenance

The petitioners have requested for refurbishment and maintenance of Rimpa -Nazerene Road Kiserian and Saikeri Road Ngong to bitumen standards. The movement of heavy trucks to transport materials, workers and equipment, as well as the use of excavators and heavy machinery, has led to the dilapidation and diversion of some existing roads. It should be noted that, the Contractor has the responsibility to repair and improve any public roads he uses for the purposes of the project. In respect to the above, the following roads have been rehabilitated by the Contractor:

- i). Rimpa - Ole Kasasi road
- ii). Kibiko - Kimuka - Il'Ngarooj
- iii). Kimuka – Nachii
- iv). Nachu - Suswa

- v). Narok - Mai Mahiu
- vi). Roads around Tuala

The following roads have also been earmarked by KURA for upgrade and tenders have been advertised:

- i). Ongata Rongai Township Roads
- ii). Kiserian Township Roads
- iii). Matasia Township Roads

Before any change or modification is done to a public road, the Contractor seeks permission from the relevant road authority, county government and the local community. In regard to provision of adequate crossings, the SGR Consultant and KR always review concerns raised by the public regarding the issue. This includes a specific initiative to review access crossings for residents, livestock and wildlife to decipher locations, orientations, sizing and numbers of the crossings required.

Maintenance is a continuous process and therefore the Contractor is committed to ensuring that any public road he uses for the construction process is maintained in good condition and to ensure road safety for all the road users.

The petitioners have requested that the EPC Contractor repair dilapidated school structures and build new structures in Arap Moi Primary School, Ongata Ronagi Primary School, Kiserian Primary School, Ngong Primary and Ololua Primary which have allegedly been affected by SGR construction works. It should be noted that the mentioned schools are far from the SGR RoW and are not affected by the construction.

In the effort to ensure social wellbeing of the community, the EPC Contractor receives and implements several requests on CSR across the entire SGR Corridor. The Contractor reviews CSR requests raised by communities and implements those within their means. Some of CSR activities undertaken by the contractor include:

- i). Rehabilitation of Kitet School in Suswa;

- ii). Donation of goods and supplies/stationeries to selected schools along the corridor;
- iii). Rehabilitation of Oletepes Community Bridge;
- iv). Expansion of Kitet community water pond; and
- v). Setting up of water supply points for communities along the alignment.

The EPC Contractor on 22nd June 2018 officially launched its Corporate Responsibility Report (2017/2018) highlighting all the activities undertaken under CSR.

Construction of Water Reservoirs

The petitioners have requested the Senate to direct KR and EPC Contractor to build water reservoirs to compensate for the alleged adverse effects of tunneling to water reservoirs such as springs and streams in Ngong area.

The contractor undertook a hydrogeology study that was aimed at finding if there is any impact of tunneling to the water sources such as springs and wells in areas around tunnel one. The study findings showed that the tunnel does not interfere with drainage regime in areas around Ngong Hills. However, in case of any impact of water resources from the SGR project related activities, necessary mitigation measures will be put in place.

In the spirit of good will, the Contractor has constructed or improved several water pans across the entire SGR Phase 2A corridor. The Contractor has further sunk boreholes for its consumption and the same water is shared with the community. The Contractor is always ready to review any request from the community in relation to water supply.

CONCLUSION

- i). The SGR project underwent detailed ESIA study and detailed ESMP and C-ESMP were prepared for application in the monitoring of the projects compliance with established environment and social issues. These tools are being applied by the Consultants and KR in ensuring identified impacts are mitigated. However, it seems that a section of the community in Kajiado County is yet to be fully engaged in the process.

- ii). Due to the dynamism of the project, there are new and emerging environmental and social issues. On the basis of established project management and supervision structure, efforts are in place to capture the emerging issues and the Contractor prevailed upon to mitigate accordingly. It is apparent that the project management is also keen to reach out to a large proportion of the population for a harmonized and inclusive action.
- iii). The Contractor has been instructed to institute with immediate effect structured CSR process in consultation with the communities and KR.
- iv). There is a detailed baseline report for landowners' structures within 300m from the corridor and any damages incurred will be attended to soon. This also includes potential effects along the tunnelling sections.
- v). The design of the project is dynamic and as the communities raise concerns on, among others, access passages, they are integrated in the continuous design reviews for necessary adoption.
- vi). Climatic conditions have been an eye opener arising from the significant impacts associated with sections of the corridor especially drainage functions through the corridor. The Contractor has since engaged professional services to establish the hydrology and hydrogeology of the corridor with a view of reviewing design structures to avoid future challenges associated with the project.
- vii). For a harmonized involvement and participation by the public and stakeholders, a clear flow of information to all players is critical. It may appear that this process has not been effective perhaps being among the reasons for this petition. A comprehensive social engagement plan will be prepared to strengthen this function for a smooth implementation of this project; and
- viii). Land acquisition is ongoing guided by RAP report and NLC compensation systems and no one will lose their land and improvements despite the experienced delays.

The Ministry of Transport, Infrastructure, Housing and Urban Development and the Kenya Railways Corporation informed the Committee that the petition and other complaints from the communities along SGR corridor is a basis for further improvement by the project management towards prompt attention to community concerns as well as upping the preventive measures.

3.3 Submissions by Ministry of Environment and Forestry and National Environment Management Authority (NEMA)

The Ministry of Environment and Forestry and the National Environment Management Authority informed the Committee as follows:

1. The SGR (Phase 2A) project was subjected to the Environmental Impact Assessment (EIA) process in accordance with the provisions of the Environmental Management and Co-ordination Act, Cap 387.
2. The project was licensed with conditions on 13th December, 2016.
3. Kenya Railways must adhere to the licensing conditions in order to ensure environmentally sustainable development.
4. The petitioners' prayers 1, 2 & 3 relate to corporate social responsibility matters.

Licensing condition 2.21 and 3.7 issued by NEMA addresses the petitioner's concerns with respect to waste management.

Condition 2.21 states that KR shall ensure that all excavated material and debris is collected, reused and where need be, disposed of as per the Environmental Management and Coordination (Waste Management) Regulations, 2006.

Condition 3.7 states that KR shall ensure that all the solid waste is handled in accordance with the Environmental Management and Coordination (Waste Management) Regulations, 2006.

5. Licensing condition 2.11 addresses the compensation concerns raised by the petitioners.

Condition 2.11 states that KR shall ensure proper relocation, compensation and restoration of livelihoods for any project-affected persons and develop a consultative plan for emerging issues and grievance redress mechanism as shall be prescribed in the Resettlement Action Plan.

6. The proposed electrification of SGR project will be subjected to the EIA process and the issue of way leaves agreement and compensation of projected affected persons will be addressed in the EIA report.
7. Licensing condition 2.16 and 2.17 addresses the petitioners' concerns with respect to air pollution. Condition 2.17 states that KR shall ensure that measures (such as sprinkling water) are put in place to control dust pollution at all times.

Condition 2.17 states that KR shall ensure strict adherence to the provisions of the Environmental Management and Coordination (Air Quality) Regulations of 2014.

8. Licensing condition 2.25 and 3.3 addresses the petitioners' concerns with respect to noise pollution.

Condition 2.25 states that KR shall undertake noise and vibration mapping including monitoring of their effects on wildlife during construction and operation and ensure strict adherence to the provisions of the Environmental Management and Coordination (Noise and Excessive Vibrations Pollution Control) Regulations, 2009.

Condition 3.3 states that KR shall ensure that all equipment used are well maintained in order to comply with the Environmental Management and Coordination (Noise and Excessive Vibrations Pollution Control) Regulations, 2009.

9. Licensing condition 2.10 addresses the petitioners' concerns with respect to reforestation.

Condition 2.10 states that KR shall ensure that the key environmentally significant areas along the railway line such as portable water sources, forests, breeding sites, gazette parks are protected and conserved.

10. Licensing condition 2.13 and 2.31 addresses the petitioners' concerns with respect to human-wildlife conflict.

Condition 2.13 states that KR shall put structures and mechanisms that will ensure livestock movement across the railway for access to grazing areas and watering points where applicable.

A condition 2.31 state that within the wildlife gazetted areas, KR shall closely work with KWS to ensure the integrity of the environment is maintained and suitable fences are constructed to mitigate wildlife - train conflicts and ensure wildlife safety and to close off any possibility of illegal access into the park by pedestrians.

11. On public participation: NEMA, at the cost of the Contractor, invited the members of the public to submit their comments on the proposed project in accordance with the Environmental (Impact Assessment and Audit) Regulations, 2003. The following advertisements were done:

- (a) The Daily Nation on 27th October, 2016,
- (b) The Kenya Gazette on 28th October, 2016, and
- (c) The Daily Nation on 3rd November, 2016.

3.4 Submissions by National Land Commission

The NLC submitted to the Committee as follows:

The Commission, vide Gazette Notice No. 2032 and 2033 of 2nd March, 2018, gazetted acquisition of the Phase 2A Standard Gauge Railway.

The Commission conducted inspection and valuation of the affected properties along the corridor. The Commission relied on information from:

1. On improvements - BORAQS construction rates;
2. On Land value - advise from the Ministry of Lands and Physical Planning;
3. On trees - Kenya Forest Service; and
4. On crops – The Ministry of Agriculture, Livestock, Fisheries and Irrigation.

During the above exercise the commission took note of the following emerging issues and it is in the process of formulating a policy guide for rationality of compensation;

1. Ministry of Lands advice on compensation variances in neighboring locations

- (a) Merisho area - Kshs 5 Million per acre which is adjacent to Nkoroi (Kshs 30 Million) and Olkeri (Kshs.5 Million per acre) that is 1km from Ngong (Kshs 32 million per acre). All the three locations are within Ngong/Ngong registration section.
- (b) Kajiado/Ntashart -Kimuka (Kshs.3 Million per acre) neighbouring Kibiko (Kshs 14 million per acre) yet infrastructural and social facilities serve the two areas. Furthermore, the tunnel runs across both areas.
- (c) Longonot Kijabe/Block neighbouring Kshs 400,000 per acre versus the neighbouring Kedong at Kshs 1 Million per acre.

2. NLC Application regularizing the compensation rates

The Commission analyzed the locational rates based on similar location and comparability of sales, use, proximity to infrastructure and social amenities vis-a-vis locational land exchange values. The locational exchange value expectation from the affected people was adopted on the basis of evidence of stamp duty declarations.

Demarcation indicated by MOLPP at Nkoroi area is 30 million to the right of Barabara mpya while to the left, Merisho area is 8 million per acre. The Commission observed that part of Merisho entangles into Nkoroi and both areas belong to the same ecological zone and they both front Magadi Road. Therefore, Nkoroi was increased to 35m and Merisho to 25m for fairness and acceptability of the project.

Merisho area borders Oloolua forest with a 1.3km stretch into Olkeri area given 5m per acre by MOLPP. A further 1.3km Oloolua forest demarcates Olkeri from Oloolua/Olepolos that was given 32m per acre by MOLPP. Located at the basin of Oloolua Forest, the Commission observed that Olkeri is the furthest point from Magadi Road and Ngong Road. However, Olkeri is 2.7km from Karen the demarcation being the protected forest line. The Commission also noted that Olkeri land parcels had informal subdivisions.

Longonot/Kijabe - Utheri wa Lari have been valued at Kshs.400,000/= per acre while the neighbouring Kedong Ranch oscillates from Kshs.500,000/= to Kshs. 1 million at the crossing of Maai Mahiu Ranch at the Suswa Kitet. The Commission noted that this distinction of the areas from Kimuka Kshs.3 milion, Saikeri Trading Centre Kshs.800,000/= per acre to Nachu/Mikuyuni/Western Grazing Kshs.700,000/= to Kedong Ranch was rather subjective since the ecological zone is the same. Therefore, for the Longonot/Kijabe section/Utheri wa Lari, the Commission increased from Kshs.400,000/= to a range of Kshs.800,000 - 1 million as one approaches Kedong Ranch towards the Maai Mahiu Road.

The Commissioners noted that the land value index is not yet law but should be used as a guide. The Directorate should apply the principle of equity in comparative location, use, size, access to infrastructure and ecological zoning.

Kandisi ¹	Nkoro ²	Merisho ³	Olkeri	Ooloolua	Bulbul ⁴	Kibiko	
18.4m	30m	8m	5m	32	32-60m	14m	(MOLPP)
18.4m	35m	25m	20m	32	32m	14m	(NLC)

In this section of the SGR corridor, the Commission has duly harmonized the land market transaction indices in tandem with the MOLPP land value survey for rationality.

CHAPTER 4

COMMITTEE DETERMINATION

This chapter addresses all matters that have been raised by the Petitioners and brief description on the guiding determination being made by the Committee on each of the concerns raised by the Petitioners.

1. That the construction of phase 2A of the Standard Gauge Railway (Nairobi - Naivasha) is currently ongoing with sections of the route passing through Kajiado County.

The committee ascertained this fact during its fact finding visit to Kajiado and Nakuru counties.

2. That the construction of phase 2A of the SGR has caused serious adverse effects to the environment and the community along which the route was passing.

The Committee can confirm that this is indeed true, and the from the Petitioners and area residents' presence during its meetings and site visits, submissions made clearly illustrated the suffering they were undergoing from the dust to vibrations that were being experienced from and caused damage to their houses. The Committed confirmed that indeed the petitioners' complaints on this particular issue were valid.

3. Some of the adverse effects of this project the committee observed were as follows-

- (a) Air pollution from dust from quarries such as Ole Nina Farm in Kisamis, Enkusero Sampu, and Ngong Veterinary farm where raw materials are sourced;
- (b) Noise pollution from blasts from the aforesaid quarries;
- (c) Damages (cracking) to the roads and structures surrounding the quarries arising from vibrations and tremors caused by loud blasts in the quarries; and
- (d) Diversion of water flowing to water reservoirs, springs, streams and underground reservoirs as a result of tunneling.

4. That meaningful public participation was not carried out prior to the commencement of the construction of phase 2A of the Standard Gauge Railway therefore depriving affected communities the chance to express themselves on the issue;

The Committee confirmed that the project proponents engaged some members of the public but these engagements were not widespread as would have been expected of a project of such magnitude and with the expected attendant adverse impacts on the population.

5. That compensation of affected person has been inadequate as it has either failed and/or ignored the devaluation effect of properties along which the route was passing through.

The Committee noted from its engagement with property owners along the course that there were concerns that the project have adversely affected the value of their land.

The Committee also noted that there is a proposal to electrify the Standard Gauge Railway thus there would be instillation of electric lines along the route. The Committee may not be able to comment on this as this is a matter within the prerogative of the Kenya Railways Services and should there be such a proposal then the Committee should be involved where at the appointed time.

6. That the right to a clean and healthy environment is enshrined in the constitution.

The Committee is in agreement with the statement as provided under Article 42 of the Constitution.

7. That the State has an obligation to ensure sustainable exploitation, utilization, management and conservation of the environment and natural resources.

The Committee is in agreement with the statement as enshrined under Article 69(1)(a) of the Constitution.

CHAPTER 5

COMMITTEE OBSERVATIONS

From the Evidence adduced and the committee made the following observations in line with the prayers of the Petitioners-

1. On the prayer that the Committee directs the Kenya Railways Corporation and the China Roads and Bridges Corporation to refurbish and maintain Rimpa-Nazarene road, Kiserian and Saikeri road, Ngong to bitumen standards;

The Committee observes that this lies within the prerogative of the Company undertaking the project in line with their social obligations to the community.

2. On the prayer that the Committee directs China Roads and Bridges Corporation as part of its Corporate Social Responsibility to repair dilapidated school structures and build new structures in Arap Moi Primary School, Ongata Rongai Primary School, Kiserian Primary School, Ngong Primary and Ololua Primary which have been adversely affected by the ongoing construction;

The Committee observes that this lies within the prerogative of the Company undertaking the project.

3. On the prayer that the Committee directs the Kenya Railways Corporation and the China Roads and Bridges to build water reservoirs to compensate for the adverse effects of tunneling in the affected areas and reopen all springs and streams in Ngong Hills;

The Committee observed during its site visit that Kenya Railways has ensured that a water reservoir was built that collects all the water that was drained out of the tunnel and that it continues to collect the water for use.

4. On the prayer that the Committee directs Kenya Railways Corporation and the China Roads and Bridges to treat and dispose of waste from the construction sites in an environmentally friendly manner to avoid negatively impacting on the quality of water in streams, springs and reservoirs;

The Committee observed that this is a sensitive matter and that all waste should be properly treated and exposed in an appropriate manner and in accordance with the law. It is the responsibility of the relevant department in Kajiado and Naivasha County Governments and NEMA to implement the provisions of the law that guides this area.

5. On the prayer that the Committee directs the Kenya Railways Corporation to compensate affected residents while taking into account the devaluing effect that the railway route is going to have on adjacent properties;

The Committee notes with very great concern that in as much as the Committee is impressed with the work so far done in terms of development, members of the public and especially residents of the areas affected by the Railway should have been adequately compensated before anything is done in their rightfully owned parcels of land.

6. On the prayer that the Committee directs the Kenya Railways Corporation and the China Roads and Bridges Corporation to enter into way leaves agreement as a form of compensation to persons affected in case of electrification of the standard gauge railway;

The Committee notes that this is a matter that in the event it's implemented then, the Kenya Railways should be able to work within the law and ensure that all persons affected are adequately compensated.

7. On the prayer that the Committee directs the Kenya Railways Corporation and the China Roads and Bridges to put measures in place to ensure that air and noise pollution levels are considerably reduced as well as promote and embark on a reforestation campaign;

The Committee notes that this is a valid concern and that the Kenya Railways should take note and ensures that noise pollution is contained and reforestation should be undertaken as soon as the projected is completed.

8. On the prayer that the Committee directs the Kenya Railways Corporation and the China Roads and Bridges Corporation in cooperation with relevant agencies to put in place measures to mitigate against human-wildlife conflict;

The Committee observes that due to the effects that occurred as result of the SGR passing through the National Park, it has an effect on the wildlife residing in the park translating

to effects of them loitering around the park posing a risk to persons living in those areas and that this should be mitigated by ensuring that the railway is constructed in a manner to minimize disruptions that affects the natural habitat of wildlife.

9. On the prayer that the Committee directs the Kenya Railways Corporation and the China Roads and Bridges Corporation to undertake meaningful and structured public consultations going forward;

The Committee observes that indeed going forward, it's important for the Kenya Railways to have extensive public participation before any project is undertaken.

The Committee during its visits observed that residents had very genuine concerns where they were not informed in some cases and that the valuer they got gave misleading valuations and not representative values of their properties. This led to complaints by the residents especially in urban centers along the railway.

10. That the Committee directs the Kenya Railways Corporation and the China Roads and Bridges Corporation to re-evaluate the list of its project consultants in light of clear gaps and lapses in environmental management that has occasioned environmental degradation.

The Committee observes that should there be any irregularities observed with the current consultants then Kenya Railways should be able to replace the consultants within the provisions set out in the law.

CHAPTER 6

COMMITTEE RECOMMENDATIONS

From the foregoing, the Committee now makes the following recommendations-

1. The Committee recommends that Kenya Railways Corporation compensates all the affected residents with legitimate claims with immediate effect and that all compensations must be completed by 30th December, 2019. In the same breath all cases that are pending should be fast tracked and the genuine owners compensated.
2. The Committee further recommends that all properties that were affected by the construction process of the SGR as was observed during the visit be investigated and compensations be carried out before the project is finalized.
3. The Committee recommends that in cases where it is confirmed that there are persons who have been affected by environmental pollution and have their health affected, such persons should be compensated adequately.
4. The Committee recommends that a status report of the implementation of the aforementioned concerns be communicated to the Committee not later than 31st December, 2019.
5. The Committee directs the Kenya Railways Corporation to undertake meaningful and structured public consultations going forward and that any aggrieved individual must have his/her concerns addressed. In cases where values of properties are disputed, resolution of the disputes need to be fastened and a status report be submitted to this committee two months from the date of tabling of this report.

MINUTES OF THE 17TH MEETING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON WEDNESDAY 3RD JULY, 2019 IN COMMITTEE ROOM 10, MAIN PARLIAMENT BUILDING AT 11.00AM.

MEMBERS

1. Sen. Mwangi Paul Githiomi, M.P.
2. Sen. Prengei Victor, M.P.
3. Sen. Mwaruma Johnes, M.P.
4. Sen. Halake Abshiro, M.P.
5. Sen. Godana Hargura, M.P.
6. Sen. Boy Issa Juma, M.P.

PRESENT

- Chairperson
- Vice Chairperson
- Member
- Member
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. Sylvia Kasanga, M.P. - Member
2. Sen. George Khaniri, MGH, M.P. - Member
3. Sen. Ndwiga Peter Njeru, EGH. M.P. - Member

IN ATTENDANCE

A. SENATORS

1. Sen. Charles Kibiru, MP - Senator, Kirinyaga County
2. Sen. Anuar Loititip, MP - Senator, Lamu County

B. MINISTRY OF LANDS AND PHYSICAL PLANNING

1. Hon. Gideon M. Mungaro - CAS
2. Mr. Daniel Kithuuka - D/DLAO
3. Dr. Eustace N. Kithumbi - SADLAS
4. Mr. Owino Jacob Cattwright - SLRO
5. Mr. Charles Githenya - D/Director Land Administration
6. Ms. Juliana Mutua - D/Director Physical Planning
7. Ms Gertrude K. Rapong'o - Asst. Director Physical Planning
8. Mr. A. A. Ombima - Liaison Officer
9. Mr. Geoffrey Kibowen - Snr. Land Surveyor
10. Mr. Paul Ndung'u - Snr. Land Surveyor

C. NATIONAL LAND COMMISSION

1. Ms. Kabale Tache - Ag. CEO/ Sec. NLC
2. Mr. Francis Bor - DCS NLC
3. Mr. Dennis Mutungi - Co-ordinator NLC
4. Mr. Benard Cherutich - D/D Finance and Accounting
5. Ms. Judy Kirior - PA Ag. CEO

D. SENATE SECRETARIAT

- | | |
|-------------------------|-------------------|
| 1. Mr. Yussuf Shimoy | - Clerk Assistant |
| 2. Mr. Jeremy Chabari | - Legal Counsel |
| 3. Ms. Joyce Chelang'at | - Audio Recording |

MINUTE SEN/SCLNR/097/2019: PRELIMINARIES

The meeting was called to order at 11.06 am by the Chairperson followed by a word of Prayer.

MINUTE SEN/SCLNR/098/2019: ADOPTION OF AGENDA

The agenda was therefore proposed by Sen. Prengei Victor, MP and seconded by Sen. Godana Hargura, MP as follows;

1. Preliminaries;
 - *Prayer,*
 - *Chairpersons remarks*
2. Adoption of the agenda;
3. Confirmation of Minutes;
4. **Meeting with the Cabinet Secretary Ministry of Lands and Physical Planning and CEO National Land Commission on Statements and Petitions before the Committee;**
5. Any other Business;
6. Date of the next meeting;
7. Adjournment.

MINUTE SEN/SCLNR/099/2019: CONFIRMATION OF MINUTES

The confirmation of Minutes was deferred to the next housekeeping meeting.

MINUTE SEN/SCLNR/100/2019:

MEETING WITH THE CABINET SECRETARY MINISTRY OF LANDS AND PHYSICAL PLANNING AND CEO NATIONAL LAND COMMISSION ON STATEMENTS AND PETITIONS BEFORE THE COMMITTEE;

The Committee was informed that the Cabinet Secretary for the Ministry was not available and that the Chief Administrative Secretary, Hon. Gideon Mung'aro, was to represent her during the deliberations.

The Committee noted that most of the matters under consideration required policy directions hence the presence of the Cabinet Secretary in person and resolved to schedule another meeting to give the Cabinet Secretary an opportunity to attend.

The Committee directed the Ministry to submit comprehensive responses on all the matters (petitions and statements) it sought through its earlier communications within three (3) weeks.

Further, the Committee requested the following additional information within the same duration-

1. The Ministry's position and policy, if any, on demolitions and way leaves;
2. Update on the whether the Ministry has identified parcel of land to resettle the persons evicted from Marmanet Forest in 1988 in Laikipia;
3. The process, status and progress of titling of colonial villages in the Country particularly the 30 villages in Nyandarua County; and
4. Information on actions the Ministry has taken on all the titles recommended for revocation by the National Land Commission in regard to Lamu County.

Consequently, the meeting was adjourned without any further discussions.

MINUTE/ SEN/SCLNR/101/2019: ANY OTHER BUSINESS

Sen. Johnson Sakaja was requested to write a letter to the Committee indicating all issues he has on matters land to enable the Committee to deal with them conclusively.

MINUTES/SEN/SCLNR/102/2019: ADJOURNMENT

The meeting was adjourned at 12.02 pm. The date of the next meeting was to be called on notice.

SIGNATURE.....

DATE.....

(CHAIRPERSON: SEN. MWANGI PAUL GITHIOMI, MP.)

MINUTES OF THE 3RD MEETING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON WEDNESDAY, 13TH FEBRUARY, 2019 IN COMMITTEE ROOM 10, MAIN PARLIAMENT BUILDING AT 9.00 AM.

MEMBERS

1. Sen. Mwangi Paul Githiomi, M.P.
2. Sen. Mwaruma Johnes, M.P.
3. Sen. Halake Abshiro, M.P.
4. Sen. Godana Hargura, M.P.

PRESENT

- **Chairperson**
- Member
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. Prengei Victor, M.P.
2. Sen. George Khaniri, MGH, M.P.
3. Sen. Ndwiga Peter Njeru, EGH. M.P.
4. Sen. Sylvia Kasanga, M.P.
5. Sen. Boy Issa Juma, M.P.

- **Vice Chairperson**
- Member
- Member
- Member
- Member

IN ATTENDANCE

SENATOR

1. Sen. Charles Kibiru - Senator, Kirinyaga County

NATIONAL ASSEMBLY MEMBERS

1. Hon. Kabinga Wachira - MP (Mwea Constituency)

MINISTRY OF LANDS

1. Hon. Gideon M. Mungaro - CAS
2. Mr. Michael Nyamai - Snr. Ass. Dir. Land Adj.
3. Mr. Peter K. Waithaka - Ag. Dep. Adj
4. Mr. Charles Muemi - D/Director Valuation
5. Mr. Edward Kosgei - Dir. Land Admin.
6. Mr. Charles Githenya - D/Director Land Administration
7. Mr. Owino Jacob Cattwright - SLRO
8. Mr. Paul Ndung'u - Ag. Ass. Director
9. Mr. Kamau J.H.M - CLAO
10. Mr. A. A. Ombima - Liaison Officer
11. Ms. Juliana Mutua - D/Director Physical Planning

SENATE SECRETARIAT

1. Mr. Victor Bett - Clerk Assistant
2. Mr. Ahmed Odhowa - Principal Researcher
3. Mr. Mitchell Otoro - Legal Counsel
4. Ms. Hawa Abdi - Seargent at Arms
5. Mr. Nimrod Ochieng' - Audio Recording
6. Ms. Sharon Eleman - Intern

MINUTE SEN/SCLENR/012/2019: PRELIMINARIES

The meeting was called to order at 9.30am by the Chairperson followed by a word of prayer. Thereafter introductions followed.

MINUTE SEN/SCLENR/013/2019: ADOPTION OF AGENDA

The agenda was therefore proposed by Sen. Godana Hargura, M.P. and seconded by Sen. Mwaruma Johnes, M.P as follows.

1. Preliminaries;
 - *Prayer,*
 - *Chairpersons remarks*
2. Adoption of the agenda;
3. Confirmation of Minutes;
4. **Meeting with the CS Lands & Physical Planning and the NLC on Statements and Petitions before the Committee;**
5. Any other Business;
6. Date of the next meeting;
7. Adjournment.

MINUTE SEN/SCLENR/014/2019:

MEETING WITH THE CS LANDS & PHYSICAL PLANNING AND THE NLC ON STATEMENTS AND PETITIONS BEFORE THE COMMITTEE

Ministry of Lands and Physical Planning

The Chief Administrative Secretary made his presentation as follows:

A. Response to Statement as requested in the Senate by Sen. Kiburu Charles, MP

STATUS OF ISSUANCE OF TITLE DEEDS FOR MWEA RICE FARMERS IN KIRINYAGA COUNTY

• The actual acreage of Mwea Irrigation Scheme land in Kirinyaga County.

The Committee was informed that Mwea Irrigation Scheme was set apart vide *Gazette Notice* Nos 3097 and 3099 dated 5th July 1960. The *Gazette Notice* No. 3097 set apart acreage of 8,480 acres while the *Gazette Notice* No. 3099 set apart 7,120 acres for irrigation scheme.

Other *Gazette Notices* relating to the Irrigation Scheme are as tabulated below:

Gazette Notice	Date	Size (Acres approx.)	Purpose
3098	05.07.1960	22	Mwea/Tebere Scheme Canal
3100	05.07.1960	27	Draining of Nguka swamp
3102	05.07.1960	9.6	Dam to protect Nguka Irrigation Beds

3101	05.07.1960	25	Kiruara Drainage way
3103	05.07.1960	0.8	Drainage furrows protecting Nguka Dam
3090	26.07.1960	60	Main Thiba Water Canal Serving Mwea/Tebere Scheme
3096	26.07.1960	125	Mwea Tebere Scheme Village and Agricultural officer's house and staff lines
3093	26.07.1960	10	Protection of Head works
3095	26.07.1960	54	Mwea/Tebere scheme village and tree plantation

The total area of Mwea Irrigation scheme is therefore **15,933 Acres** approximately.

- **Status of surveying, beaconing and mapping of the Mwea Irrigation Scheme.**

The Committee was informed that the area in question is covered by Topographical Map Sheet SK 135/2-Embu (see Annex 2). Besides this, the Ministry has no records to indicate that the land has ever been surveyed.

- **Status of preparation of title deeds for the parcels of land owned by Mwea rice farmers.**

The Committee was informed that by virtue of Gazette Notices Nos. 3090, 3093, 3095, 3096, 3097, 3098, 3100, 3101, 3102, 3103 of 1960; the area known as Mwea/Tebere Irrigation Area in the Kirinyanga District of the Central Province was designated as a national irrigation scheme. Pursuant to Section 14 (2) of the Irrigation Act, Cap 347, the title or interest in such land is vested in the National Irrigation Board.

The Committee is not in agreement with most of the issues as presented by the Ministry, terming them as inaccurate and that a visit to the ground would possibly shed more light. A view that was also shared by the Senator, Kirinyaga County and the MP Mwea whose constituency Mwea Irrigation Scheme is in.

The Committee therefore made the following resolutions:

- i.) **Invite the Ministry of Agriculture, National Irrigation Board and Ministry of Lands and Planning.**
- ii.) **Visit the Mwea Irrigation Scheme**

B. Response to Petitions

1. PETITION BY THE RESIDENTS OF GILGIL TOWNSHIP CONCERNING ALLEGED GRABBING OF PUBLIC UTILITY AND PRIVATE LAND AT LELESHA, GILGIL TOWNSHIP, IN NAKURU COUNTY.

The Committee was informed that the claim by the petitioners that the Anti-Stock Theft Unit (ASTU) officers invaded and occupied approximately 40 acres of land, part

of which included residential plots that had already been allocated to individuals is not true and that 118 acres were zoned off for the ASTU from the land set aside for public purpose. It is therefore proper for the ASTU to occupy the land.

Further the CAS informed the Committee that the Petitioners in their Petition want the original Approved Development Plan to be upheld, including safeguarding of the public utility land as well as the allotted residential plots in which the CAS responded by informing the Committee that Gilgil Development Plan No. 91 (the Plan) zoned the land into 8 broad approved development uses as follows:

USE	APPROXIMATE ACRES
Residential	379892.2
Industrial	123.5
Educational	6707.4
Recreational	28.6
Public purpose	4029.5
Commercial	152.9
Public utilities	17
Transportation	299
Total Acreage	391,250.1

The Committee therefore made the following resolutions:

- i.) **To conduct a site visit with the Ministry of Lands and Planning and the County Government of Nakuru to the meeting at a date to be communicated.**
- 2. PETITION ON THE RESETTLEMENT OF THE MINORITY NGEREK COMMUNITY FOLLOWING THEIR PROPOSED EVICTION FROM SOUTH NANDI FOREST, IN NANDI COUNTY.**

The Committee was informed by the CAS that the resettlement exercise was undertaken by the Office of the President and involved Ngerek and Koiben communities who settled in Ngerek and Koiben villages in South Nandi.

Since the settled area was rocky, hilly and served as a water catchment, the Government decided to resettle the two communities in Kapkangani and New Koiben areas, respectively. The Koiben community would be resettled on 266.8 Ha and the Ngerek Community on 455.4 Ha. This was in exchange of land previously held by the two communities in South Nandi Forest.

The resettlement programme was to be carried out in two phases:

- a.) Phase one involved resettlement of the Koiben Community at New Koiben/Chepkuma area and this was successfully completed.

- b.) Phase two would involve resettlement of the Ngerek Community but was accompanied by the following challenges:
- i). political interference;
 - ii). some original allottees sold their plots;
 - iii). The Ngerek community attempted to forcefully occupy the parcels allocated to them but this led to clashes in 2002;
 - iv). The Ngerek are still occupying their original land (Ngerek Hill) as they did not surrender their title deeds to the Kenya Forest Services as earlier agreed.

The Ministry therefore informed the Committee that; in these circumstances, there is need for engagement between the local leadership and relevant government agencies to resolve the issue.

The Committee therefore made the following resolutions:

The Ministry of Lands and Physical Planning should organise a team, visit the area and spearhead the engagement between the Local Leadership and the relevant Government agencies and report back to the Committee within 3 months.

3. PETITION BY RESIDENTS OF KIANG'OMBE SQUATTERS SETTLEMENT SCHEME IN THIKA SUB-LOCATION, KIAMBU COUNTY, CONCERNING ALLEGED GRABBING OF LAND ALLOCATED FOR THEIR SETTLEMENT.

The Committee was informed that the Ministry has a part development plan (PDP) for Kiang'ombe village departmental reference No.TKA/4/03/2A prepared on 30/10/2009, certified by the Director of Physical Planning on 4/12/2013 and approved on 4/12/2013 as approved Development Plan No. 365.

There are 585 plots allocated in total in the PDP out of which 13 are set aside for public utilities as shown in the table below:-

USE	NO. OF PLOTS	AREA IN HA
Residential and Commercial	574	17.277
Transport	1	6.226
Churches	2	0.189
Conservation area	1	1.775
Garbage collection plant	1	0.028
Dispensary	1	0.179
Nursery schools	3	0.399
Police post	1	0.105
Proposed primary school	1	1.176
	585	27.304

The approved part Development Plan was prepared and published as per the requirements of the Physical Planning Act Cap 286 and superseded PDF NO. KBU/93/22 of 19.10.1993 and TKA/4/03/2 of 21.11.2003.

However the CAS sought leave for **two weeks** to furnish the committee with a ground report as to who is in occupation of the parcels set aside for public utilities.

The Committee therefore made the following resolutions:

- i.) **To invite the Petitioners**
- ii.) **The Ministry of Lands and Physical Planning to forward the actual map indicating the allocations;**
- iii.) **The Ministry of Lands and Physical Planning to visit the area together with the Committee to ascertain facts on the Parcels of Land.**

4. PETITION FROM EVICTEES OF MARMANET FOREST IN LAIKIPIA COUNTY CONCERNING THEIR COMPENSATION AND RESETTLEMENT.

The Committee was informed that the matter is currently before the National Land Commission for resolution. They committed to follow up with the National Land Commission and were seeking more time to also consult with other relevant government agencies.

The Committee however had the following concerns:

- How comes that the forest has not been degazetted but titles are there?
- Who exactly was allocated the parcels of land?
- What was the basis of issuing out the titles?

The Committee therefore made the following resolutions:

- i.) **To invite the Petitioners**
- ii.) **The Ministry of Lands and Physical Planning to follow up with NLC and report back to the Committee on the Status;**
- iii.) **The Committee would also engage the National Land Commission & the Kenya Forest Service.**
- iv.) **The Committee to visit the area to ascertain facts in the alleged forest.**

5. PETITION TO THE SENATE CONCERNING UNLAWFUL DEPRIVATION OF A PARCEL OF LAND IN KAPUTEI NORTH KAJIADO (KJD/KAJIADO/KAPUTIEI NORTH/28126).

Mr. DAVID MUNGAI NG'ANG'A, the petitioner claims the parcel belongs to his wife JECINTA NJERI NGANGA, while his neighbor claims to be the owner of the property. The petitioner wants the ownership of the land to be reinstated.

The Committee was informed that according to the records, the above parcel is registered to JECINTA NJERI NGANGA of ID 3243898 and title deed issued. (Annex 1)

There is no ownership dispute as the land in question belongs to JECINTA NJERI NGANGA. It is therefore clear that the petition touches on a boundary dispute. In terms of section 18 (2) of the Land Registration Act, a proprietor of registered land with a boundary dispute is obliged to first seek redress or resolution from the land registrar.

The petitioner should thus lodge a formal boundary dispute at the Kajiado lands office for the same to be resolved.

The Committee therefore made the following resolutions:

In view of the Petition being at the Senate, that Committee directs that the Registrar goes to the site and assist the Petitioner.

6. PETITION TO THE SENATE CONCERNING MGENO RESERVE LAND REGISTRATION NUMBER 3880/3

The Petitioner is a resident of Mwatate Constituency, in Taita Taveta County. The Petitioner's prayers are:

- To have members of Mgeno committee gazetted;
- The Government to survey and register Mgeno community land and issue title deeds and
- Revoke titles illegally issued.

The Committee was informed that all parcels subdivided from LR. No. 3880 including LR. No. 3880/3 was surrendered to the Government for Community Settlement. LR. No. 3880/3 was allocated except some 6000 acres (south of the Railway line). Titles were issued to the community or beneficiaries under the MODAMBOGHO ADJUDICATION SECTION.

The un-alienated part of LR. No. 3880/3 (approx. 6000 acres), was sparsely inhabited until recently when people started moving in. The National Youth Service (NYS) is currently occupying approximately 300 acres of the un-alienated land. LR. No. 3880/3 borders Community Land measuring approximately 7300 acres-popularly known as "Mgeno Grazers". It also borders Mugeno Ranch LR. No. 12178 measuring 20,920 Ha.

Further, the Committee was informed that the Ministry has embarked on a Rapid Response Initiative (RRI) to ensure titles are issued for the remaining 6000 acres in LR 3880/3. (Attached is a sketch showing the referenced parcels).

The Committee therefore made the following resolutions:

- i.) **To invite the Petitioners;**
- ii.) **The Ministry of Lands and Physical Planning to visit the area together with the Committee to ascertain facts on the disputed Parcels of Land.**

National Land Commission

The Committee did not receive any apologies from the NLC and resolved to re-invite them again once new commissioners are sworn to office.

MINUTE SEN/SCLNR/015/2019: ANY OTHER BUSINESS;

There was no other business discussed.

MINUTE SEN/SCLNR/016/2019: DATE OF NEXT MEETING;

The meeting was adjourned at 11.35 am and the next meeting was to be held thereafter.

SIGNATURE..... DATE.....

(CHAIRPERSON: SEN. MWANGI PAUL GITHIOMI, MP.)

MINUTES OF THE 24TH MEETING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY, 28TH JUNE, 2018 IN, THE SENATE CHAMBER, MAIN PARLIAMENT BUILDING AT 12.00 NOON.

MEMBERS

1. Sen. Mwangi Paul Githiomi, M.P.
2. Sen. Prengei Victor, M.P.
3. Sen. Halake Abshiro, M.P.

PRESENT

- Chairperson
- Vice Chairperson
- Member

ABSENT WITH APOLOGY

1. Sen. Ndwiga Peter Njeru, EGH, M.P. - Member
2. Sen. George Khaniri, MGH, M.P. - Member
3. Sen. Mwaruma Johnes, M.P. - Member
4. Sen. Sylvia Kasanga, M.P. - Member
5. Sen. Boy Issa Juma, M.P. - Member
6. Sen. Godana Hargura, M.P. - Member

**IN ATTENDANCE
FORESTRY**

MINISTRY OF ENVIRONMENT &

1. Mr. Keriako Tobiko, CBS, Sc - Cabinet Secretary
2. Mr. Wilson Tonkei - Personal Assistant
3. Mr. Joseph Rono - Personal Assistant

**MINISTRY OF ROADS TRANSPORT, HOUSING & URBAN
DEVELOPMENT**

1. Prof. Paul Maringa Mwangi - PS Transport

KENYA RAILWAYS SGR CONSULTANTS

1. Mr. Benson Kimotho - KR – SGR – Consultant
2. Ms. Shalini Tak - KR – SGR – Consultant

SENATE SECRETARIAT

1. Mr. Victor Bett - Committee Clerk
2. Mr. Simon Muinde - Audio Recording
3. Mr. Mitchell Otoro - Legal Counsel
4. Mr. Wilson Bosumet - Sergeant at arms

MINUTE SEN/SCLNR/132/2018: PRELIMINARIES

The meeting was called to order at 12.05pm by the Chairperson followed by a word of prayer.

MINUTE SEN/SCLNR/133/2018: ADOPTION OF AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Halake Abshiro, M.P. and seconded by Sen. Prengei Victor, M.P.

1. Preliminaries;
 - *Prayer,*
 - *Chairpersons remarks*
 - *Introductions*
2. Adoption of the agenda;
3. Deliberations on the Petition by the residents of Kajiado County on the Adverse environmental and social effects arising from the construction of Phase 2A of the Standard Gauge Railway (Nairobi – Naivasha Section).
 - **Ministry of Transport, Infrastructure, Housing and Urban Development and the Kenya Railways Co-operation**
 - **Ministry of Environment and Forestry and National Environment Management Authority (NEMA)**
 - **National Land Commission**
4. Any other Business;
5. Date of the next meeting.
6. Adjournment

MINUTE SEN/SCLNR/134/2018:

DELIBERATIONS ON THE PETITION BY THE RESIDENTS OF KAJIADO COUNTY ON THE ADVERSE ENVIRONMENTAL AND SOCIAL EFFECTS ARISING FROM THE CONSTRUCTION OF PHASE 2A OF THE STANDARD GAUGE RAILWAY (NAIROBI – NAIVASHA SECTION)

A. Ministry of Transport, Infrastructure, Housing and Urban Development and the Kenya Railways Co-operation

The matters raised in the Petition have been analyzed and categorized into 4 categories:

- i). Social Concerns;
- ii). Environmental Concerns;
- iii). Land Acquisition Concerns; and
- iv). Requests by the Petitioners.

The following was the presentation:

(i) Social Concerns;

Public Participation

Under the Constitution of Kenya, public participation is prioritized to improve good governance by ensuring that citizen or community exchange views and influence decision making process. The petitioners are concerned that public participation was not carried out prior to construction of the Nairobi Naivasha SGR and allegedly deprived affected communities the chance to express themselves. In respect to the Constitution and internationally accepted guiding principles of project implementation, public participation forums were undertaken during the:

- i). SGR Phase 2A Environmental Social Impact Assessment (ESIA) process for the entire corridor.
- ii). SGR phase 2A Resettlement Action Plan (RAP) process

The locations and dates for the meetings done for the above important process was publicly advertised and all parties were allowed to give their concerns (notices, lists of participation and proceedings of the meetings are in annex).

There has been a series of interactive meetings with the meetings in all Sections with the workers on need basis on employment issues, local content, addressing grievances amongst others. The composition of the committees involves local community representatives, representatives from office of County Commissioner, elected leaders, KR Liaison officers, SGR Consultant, EPC Contractor along with other interested stakeholders.

In order to improve project and community information exchange, SGR Consultant, EPC Contractor and Kenya Railways have dedicated field liaison officers for every SGR construction Section and counties who liaise with the locals on daily basis and report back to the project management in case of any issue related to SGR.

Damage to properties

The petitioners raised the issue of damage (cracking) to the roads and structures adjacent to the quarries. Some impacts to properties and structures have been noted especially in areas around material sites such as quarries and crushers and cut sections as a result of blasting and vibration due to SGR works. In order to remedy the damages to the nearby structures, the following actions have been taken:

- i). Instruction to the EPC Contractor to reduce the number of explosives used in a single blasting activity;
- ii). A baseline survey has been conducted by registered property Valuers (ICON Valuers) through the Contractor to identify structures and other features within 300m from the right of way;
- iii). In case of damage, due compensation is done by EPC Contractor depending on merit of each case. A tracking list is prepared for all complaints to monitoring; and
- iv). Temporary relocation of households near material sites such as quarries.

(ii) Environmental Concerns;

Air Pollution

In the petition it was cited adverse effects of air pollution from quarries such as Nina farm in Kisamis, Enkusero Sampu (Ilngarooj quarry) and Ngong Veterinary Farm where ballast is being sourced from. However, the quarry at Ngong Veterinary Farm does not belong to the SGR project, the only activities in this area for SGR are tunneling activities.

SGR construction activities involve massive earthworks and mobilization of hard stone aggregate (ballast) from various quarry sites which may lead to air pollution. The main sources of air pollution are dust from quarries, borrow pits, construction of access roads and cement batching plants.

Measures have been continuously taken to mitigate air pollution across the whole corridor. The contractor has constantly been watering all construction roads to ensure minimum dust emission, along with erection of speed bumps and strict monitoring of construction vehicle speed limits. The contractor has also controlled emissions from quarry sites by installing dust arresters in all quarry sites. Also through the local administration, households in the vicinity of quarries are identified and relocated temporarily until all activities are completed.

Noise and Vibrations

Noise pollution has been experienced during construction of Phase 2A. It is therefore appreciated when the petitions raised concerns of adverse effects of noise pollution from among the quarries in Kisamis Quarry and Ingarooj quarry. Other areas with noise and vibration challenges include:

- i). Areas of cutting and excavations variously along the corridor;
- ii). Blasting activities and crushing in other quarry sites;
- iii). Blasting through tunnels that is determined by the rock regimes; and
- iv). Pilling works for bridges and from major culverts construction, as well as blasting for the tunnel works.

The Consultant prevails upon the Contractor to ensure application of right explosives technologies and strengths (low noise explosives), and avoid any blasting at night in habited areas. Contractor has also issued personal protective equipment for workers in excessive noise areas. Notices and warnings are as well provided to the public on anticipated unusual noise or vibration activities during construction.

Intensive monitoring is being enhanced through the supervision including imposing appropriate penalties for non-compliances.

Water Pollution

The petitioners have raised the issue of water pollution of streams, springs and other water reservoir around the tunnel area from chemicals associated with blasting. In respect to the above, it should be noted that there is no chemical to soften rocks that is used inside the tunnel. Blasting inside the tunnel is highly controlled and minimal explosives are used.

Further to that, there are at least 3 water ponds whereby any water seeping into the tunnel is discharged into. Regular water testing is done to ensure that any water from the tunnel is fit to be released into the environment. Test results reveal that there are no chemicals and the water is within domestic requirements. Once the tunnel is complete, it will be water proof and therefore no seepage of water into the tunnel. Any

waste water from cleaning of construction machinery is also held in a dedicated pond and is regularly tested for pollutants. They have annexed the sample water test results.

Waste Management

The petitioners have requested for treatment and disposal of waste from the construction sites in an environmentally friendly manner to avoid negatively impacting the quality of water in streams, springs and reservoirs. Domestic and construction waste are produced from the camp sites and construction sites respectively. To prevent the contamination of soils and water resources, waste management systems are employed for these areas.

For domestic waste management in camp sites, installation of septic tanks for effluence and waste collection pits are observed. The collection and disposal of the effluence and solid waste in approved, dedicated locations is conducted regularly by certified waste collectors. Other waste water is treated and tested before it is discharged into the environment, to ensure it is safe enough for irrigation and to water livestock.

To manage sewage and effluence in construction sites, portable toilets are provided and regularly emptied and cleaned by the certified service provider. Strategically located waste bins are placed on site and regularly emptied and cleaned, and waste disposed of in dedicated locations by certified waste collectors. The enforcement of waste management is implemented by the Contractor and strictly monitored by KR's Project Consultant.

Human Wildlife Conflicts

The petitioners have raised the issue of increased human — wildlife conflict in Kajiado County. The issue in the petition has been stated vaguely and therefore it is assumed that it was raised due to construction works in Nairobi National Park (NNP) and other wildlife inhabited areas where normal movement of animals have been interfered with leading wildlife to stray into human habited zones. One of the anticipated impacts before the commencement of construction works in wildlife inhabited areas was the possibility of wildlife intruding into neighboring settlements (e.g. Tuala). This was anticipated to be from the increased human presence, noise and vibration impacts from the construction works site.

As a result, a jointly approved Programme of Works (between KR, KWS, CAEC and CCCC) has been developed for NNP and other wildlife inhabited areas to balance construction works with the needs of conservation, and to minimize human-wildlife conflict. Strict hours of work have been established (6am - 6pm) with special permission sought for works that have to be conducted at night so that monitoring and security can be increased by KWS. Susceptible areas have as well been identified for fence upgrading (from East Gate to Maasai Comer). And daily monitoring of the fence

functionality around the Park is conducted by KWS. Overall, the SGR Project team works closely with KWS who monitor the movement of wildlife, and implement their Emergency Response Plans for situations of human - wildlife conflict.

Diversion of Waterways

The petitioners argue that as a result of tunneling and SGR construction, the water flowing to water reservoirs such as springs, wells and boreholes has been diverted. In response to this issue, the contractor commissioned a Hydro-geology study for the tunnel to evaluate any impacts to water reservoirs such as Kerarapon springs. The study found no direct impact to the recharge of Kerarapon springs from the SGR tunnel. A schedule of identified crossings for culverts and drainage crossings is in annex. Any water reservoir such as boreholes which are within SGR right of way will be compensated under RAP process. Any boreholes outside the right of way have been assessed under baseline report and any damages will be quantified and compensated accordingly.

It is also worth noting that there is no spring or river that has been diverted permanently from its natural cause. Bulbul River at DK 34 has been temporarily diverted for pier construction and will be returned to its natural course once works are completed. In case of any need to divert any river, permission will be sought from responsible agency such as Water Resource Management Authority (WRMA) and NEMA amongst others.

Management and Conservation of Environment and Natural Resources

The petitioners raised the issue on sustainable exploitation, utilization, management and conservation of the environment and natural resources. This is assumed to be in relation to material sites for construction, as well as protected areas the alignment passes through (Nairobi National Park (NNP) and Ololua Forest).

Once the contractor identifies a location for a material site (quarry, crusher or borrow pit) he follows the due processes by having an EIA study conducted for the site, which is then submitted to NEMA who issue a license upon approval. The contractor then implements the measures highlighted in the EMP and conditions of the NEMA license to ensure minimal social and environmental impacts from the works activities. Impacts, implementation of mitigation measures and enforcement of the NEMA license conditions are closely monitored by the Supervision team, CAEC. Upon completion of the works, a NEMA approved decommissioning plan is followed by the Contractor and supervised by the Consultant to ensure proper closure of the material site and restore it as much as possible to its former state.

Strict, comprehensive procedures are followed before commencement of works in protected areas (i.e. Nairobi National Park and Ololua Forest). The sensitivity of these ecosystems is acknowledged as before commencement of construction, ES1A

studies of the areas are undertaken by ESIA experts, as well as baseline studies of the inventory of flora and fauna in the proposed sites by the custodians of the protected areas (KWS and KFS). From these reports stringent Programme of Works and EMP(s) are formulated which the Contractor implements, along with the conditions of the NEMA license(s) and Grant of Easement agreement(s). Enforcement of these vital requirements are monitored and supervised by the Consultant to ensure minimization or elimination of environmental and social impacts in these ecosystems.

(iii) Land Acquisition Concerns;

Compensation for Land, Improvements and Livelihoods

The petitioners stated that compensation of affected persons has been inadequate and it has ignored the potential devaluation effect of properties along which the SGR passes through. Kenya Railways has undertaken a Resettlement Action Plan (RAP) to guide land acquisition process. The role of KR in the process of land acquisition is to submit coordinates of the required right of way for acquisition and also monitoring the impacts associated with land acquisition. The actual process is undertaken by the NLC.

Railway Electrification

The petitioners stated that there is a proposal to electrify the SGR thus there would be installation of electric lines along the route. It is assumed that this issue was raised from anticipation of additional land acquisition for erection of the power poles. It should also be noted that, in case of any future electrification of the SGR, the electrification process and structures involved is catered for in the acquired right of way (RoW). Due process of land acquisition and easement agreement will be followed incase extra land is required or SGR related structures traverses through any other land away from the SGR Corridor.

(iv) Requests by the Petitioners.

Roads Maintenance

The petitioners have requested for refurbishment and maintenance of Rimpa - Nazerene Road Kiserian and Saikeri Road Ngong to bitumen standards. The movement of heavy trucks to transport materials, workers and equipment, as well as the use of excavators and heavy machinery, have led to the dilapidation and diversion of some existing roads. It should be noted that, the Contractor has the responsibility to repair and improve any public roads he uses for the purposes of the project. In respect to the above, the following roads have been rehabilitated by the Contractor:

- i). Rimpa - Ole Kasasi road
- ii). Kibiko - Kimuka - Il'Ngarooj
- iii). Kimuka - Nachii
- iv). Nachu - Suswa
- v). Narok - Mai Mahiu
- vi). Roads around Tuala

The following roads have also been earmarked by KURA for upgrade and tenders have been advertised:

- i). Ongata Rongai Township Roads
- ii). Kiserian Township Roads
- iii). Matasla Township Roads

Before any change or modification is done to a public road, the Contractor seeks permission from the relevant road authority, county government and the local community. In regard to provision of adequate crossings, the SGR Consultant, and KR always review concerns raised by the public regarding the issue. This includes a specific initiative to review access crossings for residents, livestock and wildlife to decipher locations, orientations, sizing and numbers of the crossings required.

Maintenance is a continuous process and therefore the Contractor is committed to ensuring that any public road he uses for the construction process is maintained in good condition and to ensure road safety for all the road users.

The petitioners have requested that the EPC Contractor repair dilapidated school structures and build new structures In Arap Moi Primary School, Ongata Ronagi Primary School, Kiserian Primary School, Ngong Primary and Ololua Primary which have allegedly been affected by SGR construction works. It should be noted that the mentioned schools are far from the SGR RoW and are not affected by the

In the effort to ensure social wellbeing of the community, the EPC Contractor receives and Implements several requests on CSR across the entire SGR Corridor. The Contractor reviews CSR requests raised by communities and implements those within their means. Some of CSR activities undertaken by the contractor include:

- i). Rehabilitation of Kitet School in Suswa;
- ii). Donation of goods and supplies/stationeries to selected schools along the
- iii). Rehabilitation of Oletepes Community Bridge;
- iv). Expansion of Kitet community water pond; and
- v). Setting up of water supply points for communities along the alignment

The EPC Contractor on 22nd June 2018 officially launched its Corporate Responsibility Report (2017/2018) highlighting all the activities undertaken under CSR.

Construction of Water Reservoirs

The petitioners have requested the Senate to direct KR and EPC Contractor to build water reservoirs to compensate for the alleged adverse effects of tunneling to water reservoirs such as springs and streams in Ngong area.

As indicated earlier on in this report under water diversion section, the contractor undertook a hydrogeology study that was aimed at finding if there is any impact of tunneling to the water sources such as springs and wells in areas around tunnel one. The study findings showed that the tunnel does not interfere with drainage regime in areas around Ngong Hills. However, in case of any impact of water resources from the SGR project related activities, necessary mitigation measures will be put in place. Sample water pans are in annex.

In the spirit of good will, the Contractor has constructed or improved several water pans across the entire SGR Phase 2A corridor. Contractor has further sunk boreholes for his consumption and the same water is shared with the community. The Contractor is always ready to review any request from the community in relation to water supply.

CONCLUSION

- i). SGR project underwent detailed ESIA study and detailed ESMP and C-ESMP prepared for application in the monitoring of the projects compliance with established environment and social issues. These tools are being applied by the Consultants and KR in ensuring identified impacts are mitigated. However, it seems that a section of the community in Kajiado County is yet to be fully reached out for involvement;
- ii). Due to the dynamism of the project, there are new and emerging environmental and social issues. On the basis of established project management and supervision structure, efforts are in place to capture the emerging issues and the Contractor prevailed upon to mitigate accordingly. It is apparent that the Project Management is also keen to reach out to a large proportion of the population for a harmonized and ail inclusive action;
- iii). It can also be reported that the Contractor has been Instructed to institute with immediate effect structured CSR process In consultations with the communities and KR;
- iv). There is a detailed baseline report for landowners' structures within 300m from the corridor and any damages Incurred will be attended as soon as possible. This also Include potential effects along the tunneling sections;
- v). The design of the project Is dynamic and as observed, as the communities raise concerns on access passages among others, they are integrated in the continuous design reviews for necessary adoption.;
- vi). Climatic conditions of the last two months was an eye opener arising from the significant impacts associated with sections of the corridor especially drainage functions through the corridor. The Contractor has since engaged professional services to establish the hydrological and hydrogeology of the corridor with a view of reviewing design structures to avoid future challenges associated with the project;
- vii). For a harmonized involvement and participation by the public and stakeholders, a clear flow of information to all players is critical. It may appear that this process has not been effective perhaps being among the reasons for this petition. A comprehensive social engagement plan will be prepared to strengthen this function for a smooth implementation of this project; and
- viii). Land acquisition is ongoing guided by RAP report and NLC compensation systems and we are convinced no one will lose their land and improvements despite the experienced delays.

Finally, this petition and other complaints from the communities along SGR corridor is a basis for further improvement by the project management towards prompt attention to community concerns as well as upping the preventive measures.

It has been taken positively and with appreciation by the Corporation Management.

B. Ministry of Environment and Forestry and National Environment Management Authority (NEMA)

1. The SGR (Phase 2A) project was subjected to the Environmental Impact Assessment (EIA) process in accordance with the provisions of the Environmental Management and Coordination Act, Cap 387.
2. The project was licensed with conditions on 13th December
3. 2016, the proponent (Kenya Railways) must adhere to the licensing conditions in order to ensure environmentally sustainable development.
4. The petitioner's prayers 1, 2 & 3 relate to corporate social responsibility matters. Licensing condition 2.21 and 3.7 addresses the petitioner's concerns with respect to waste management.

Condition 2.21 states that the proponent **shall ensure that all excavated material and debris is collected, reused and where need be, disposed off as per the Environmental Management and Coordination (Waste Management) Regulations of 2006.**

Condition 3.7 states that **the proponent shall ensure that all the solid waste is handled in accordance with the Environmental Management and Coordination (Waste Management) Regulations of 2006.**

5. Licensing condition 2.11 addresses the **compensation** concerns raised by the petitioners.
Condition 2.11 states that **the proponent shall ensure proper relocation, compensation and restoration of livelihoods for any project-affected-persons and develop a consultative plan for emerging issues and grievance redress mechanism as shall be prescribed in the Resettlement Action Plan.**
6. The proposed electrification of SGR project will be subjected to the EIA process and the issue of way leaves agreement and compensation of projected affected persons will be addressed in the EIA report.
7. Licensing condition 2.16 and 2.17 addresses the petitioner's concerns with respect to air pollution. Condition 2.17 states that **the proponent shall ensure that measures (such as sprinkling water) are put in place to control dust pollution at all times.**

Condition 2.17 states that **the proponent shall ensure strict adherence to the provisions of the Environmental Management and Coordination (Air Quality) Regulations of 2014.**

8. Licensing condition 2.25 and 3.3 addresses the petitioner's concerns with respect to **noise pollution.**

Condition 2.25 states that **the proponent shall undertake noise and vibration mapping including monitoring of their effects on wildlife during construction and operation and ensure strict adherence to the provisions of the Environmental Management and Coordination Noise and Excessive Vibrations Pollution Control) Regulations of 2009.**

Condition 3.3 states that the proponent shall ensure that all equipment used are well maintained in order to comply with the Environmental Management and Coordination (Noise and Excessive Vibrations Pollution Control) Regulations 02 2009.

9. Licensing condition 2.10 addresses the petitioner's concerns with respect to reforestation.
Condition 2.10 states that the proponent shall ensure that the key environmentally significant areas along the railway line such as portable water sources, forests, breeding sites, gazette parks e.t.c. are protected and conserved.
10. Licensing condition 2.13 and 2.31 addresses the petitioner's concerns with respect to human-wildlife conflict.
Condition 2.13 states that the proponent shall put structures and mechanisms that will ensure livestock movement across the railway for access to grazing areas and watering points where applicable.
Condition 2.31 states that within the wildlife gazette areas the proponent shall closely work with KWS to ensure the integrity of the environment is maintained and suitable fences are constructed to mitigate wildlife - train conflicts and ensure wildlife safety **and to close off any possibility of illegal access into the park by pedestrians.**
11. On **public Participation:** NEMA, at the cost of the proponent, invited the members of the public to submit their comments on the proposed project in accordance with the Environmental (Impact Assessment and Audit) Regulations Of 2003. The following advertisements were done:
(a) The Daily Nation on 27th October, 2016,
(b) The Kenya Gazette on 28th October, 2016, and
(c) The Daily Nation on 3rd November, 2016.

C. National Land Commission

The Commission vide Gazette Notice No. 2032 and 2033 of 2nd March 2018 gazetted acquisition of the Phase 2 A Standard Gauge Railway.

The Commission has conducted inspection and valuation of the affected properties along the corridor. The Commission relied on information from;

1. Improvements-BORAQS construction rates
2. Land value-advice from the Ministry of Lands ,Housing and Physical Planning
3. Trees-Kenya Forest Services
4. Crops-Ministry of Agriculture

During the above exercise the commission took note of the following emerging issues and the directorate is hereby formulating a policy guide for rationality of compensation;

1. Ministry of Lands advice on compensation variances in neighboring locations

- (a) Merisho area-Kshs 5 Million per acre which is adjacent to Nkoroi (Kshs 30 Million) and Olkeri (Kshs.5 Million per acre) that is 1km from Ngong (Kshs 32 million per acre). All the three locations are within Ngong/Ngong registration section.
- (b) Kajiado/Ntashart -Kimuka (Kshs.3 Million per acre) neighbouring Kibiko (Kshs 14 million per acre) yet infrastructural and social facilities serve the two areas. Furthermore, the tunnel runs across both areas.
- (c) Longonot Kijabe/Block neighbouring Kshs 400,000 per acre versus the neighbouring Kedong at Kshs.1 Million per acre.

2. NLC Application regularizing the compensation rates

The Commission analyzed the locational rates based on similar location and comparability of sales, use, proximity to infrastructure and social amenities vis-a-vis locational land exchange values. The locational exchange value expectation from the affected people was adopted on the basis of evidence of stamp duty declarations.

Demarcation indicated by MOLPP at Nkoroi area is 30 million to the right of Barabara mpya while to the left, Merisho area is 8 million per acre. The Commission observed that part of Merisho entangles into Nkoroi and both areas belong to the same ecological zone and they both front Magadi Road. Therefore Nkoroi was increased to 35m and Merisho to 25m for fairness and acceptability of the project.

Merisho area borders Oloolua forest with a 1.3km stretch into Olkeri area given 5m per acre by MOLPP. A further 1.3km Oloolua forest demarcates Olkeri from Oloolua/Olepolos that was given 32m per acre by MOLPP. Located at the basin of Oloolua Forest, the Commission observed that Olkeri is the furthest point from Magadi Road and Ngong Road. However, Olkeri is 2.7km from Karen the demarcation being the protected forest line. The Commission also noted that Olkeri land parcels had informal subdivisions.

Longonot/Kijabe-Utheri wa Lari have been valued at Kshs.400,000/= per acre while the neighbouring Kedong Ranch oscillates from Kshs.500,000/= to Kshs.1 million at the crossing of Maai Mahiu Ranch at the Suswa Kite. The Commission noted that this distinction of the areas from Kimuka Kshs.3 milion, Saikeri Trading Centre Kshs.800,000/= per acre to Nachu/Mikuyuni/Western Grazing Kshs.700,000/= to Kedong Ranch was rather subjective since the ecological zone is the same. **Therefore for the Longonot/Kijabe section/Utheri wa Lari, the Commission increased from Kshs.400,000/= to a range of Kshs.800,000-1 million as one approaches Kedong Ranch towards the Maai Mahiu Road.**

The Commissioners noted that the land value index is not yet law but should be used as a guide. The Directorate should apply the principle of equity in comparative location, use, size, access to infrastructure and ecological zoning.

Kandisi ¹	Nkoroi ²	Merisho ³	Olkeri	Oloolua	Bulbul ⁴	Kibiko	
18.4m	30m	8m	5m	32	32-60m	14m	(MOL)
18.4m	35m	25m	20m	32	32m	14m	(NLC)

In this section of the SGR corridor, the Commission has duly harmonized the land market transaction indices in tandem with the MOLPP land value survey for rationality.

MINUTE SEN/SCLENR/135/2018: ANY OTHER BUSINESS;

The Committee discusses correspondences that were sent to the Committee.

MINUTE SEN/SCLENR/136/2018: DATE OF NEXT MEETING;

The meeting was adjourned at 1.55 pm and the date of the next meeting was scheduled for Thursday, 28th June, 2018.

SIGNATURE..........DATE.....12/9/18.....

(CHAIRPERSON: SEN. MWANGI PAUL GITHIOMI, MP.)

MINUTES OF THE 35TH MEETING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY, 9TH AUGUST, 2018 IN COMMITTEE ROOM 10, MAIN PARLIAMENT BUILDING AT 9.00 AM.

MEMBERS

1. Sen. Mwangi Paul Githiomi, M.P.
2. Sen. Halake Abshiro, M.P.
3. Sen. George Khaniri, MGH, M.P.
4. Sen. Mwaruma Johnes, M.P.
5. Sen. Godana Hargura, M.P.

PRESENT

- Chairperson
- Member
- Member
- Member
- Member

17th

ABSENT WITH APOLOGY

1. Sen. Prengei Victor, M.P.
2. Sen. Sylvia Kasanga, M.P.
3. Sen. Ndwiga Peter Njeru, EGH. M.P.
4. Sen. Boy Issa Juma, M.P.

- Vice Chairperson
- Member
- Member
- Member

IN ATTENDANCE

1. Mr. Samwel W'Njuguna
2. Mr. Joseph Telo
3. Ms. Jacinta Ndungu
4. Fr. Matthews Francis Ngugi
5. Ms. Charity Mpano
6. Mr. Alfred Ondari
7. Ms. Nkamunu Patita

RESIDENTS OF KAJIADO PETITIONING ON SGR

SENATE SECRETARIAT

1. Ms. Kavata Musyoka
2. Mr. Victor Bett
3. Mr. Hassan Odhwa
4. Mr. Mitchell Otoro
5. Ms. Sombe Toona
6. Mr. Wilson Bosumet
7. Ms. Abdi Hawa
8. Ms. Joyce Chelang'at

- Clerk Assistant
- Clerk Assistant
- Principal Researcher
- Legal Counsel
- Legal Counsel
- Sergeant at arms
- Sergeant at arms
- Audio Recording

MINUTE SEN/SCLNR/194/2018: PRELIMINARIES

The meeting was called to order at 9.30am by the Chairperson followed by a word of prayer.

MINUTE SEN/SCLNR/195/2018: ADOPTION OF AGENDA

The agenda of the meeting was adopted with amendments to allow beginning with agenda 5 then come back to agenda 4 after the guests have arrived. The agenda was

therefore proposed by Sen. Godana Hargura, M.P. and seconded by Sen. Halake Abshiro, M.P.

1. Preliminaries;
 - *Prayer,*
 - *Introductions*
 - *Chairpersons remarks*
2. Adoption of the agenda
3. Confirmation of Minutes
4. Meeting with the Petitioner on the Petition by the residents of Kajiado County on the adverse environmental and social effects arising from the construction of Phase 2A of the Standard Gauge Railway (Nairobi – Naivasha Section).
 - Presentation by Petitioner Mr. Samuel M. W’Njuguna
5. Any other Business;
6. Date of the next meeting;
7. Adjournment.

MINUTE SEN/SCLNDR/196/2018: **CONFIRMATION OF MINUTES**
The Confirmation of minutes was deferred to the next Committee meeting.

MINUTE SEN/SCLNDR/197/2018:
MEETING WITH THE PETITIONER ON THE PETITION BY THE RESIDENTS OF KAJIADO COUNTY ON THE ADVERSE ENVIRONMENTAL AND SOCIAL EFFECTS ARISING FROM THE CONSTRUCTION OF PHASE 2A OF THE STANDARD GAUGE RAILWAY (NAIROBI – NAIVASHA SECTION).

The Committee was taken through the document presented by Mr. Samuel M. W’Njuguna by himself. Among the key highlights he alluded to were threats he has been receiving and alleged buying of Environmental reports by the consortium from him since they hadn’t done Environmental Impact Assessments. He was able to table a number of correspondences and a write up in which he has signed supporting the issues he raised.

MINUTE SEN/SCLNDR/198/2018: **ANY OTHER BUSINESS;**

- Since the Justice and Legal Affairs Committee were not able to raise quorum the Joint meeting that was to be called thereafter could not start.
- The Committee discussed the possibility of two invitations i.e. from the state department of Mining and from the Ministry of Water that have been received at the office of the Clerk and may need the Committee to select two representatives each. The Chairperson committed to nominate persons who will represent the Committee.

MINUTE SEN/SCLNR/199/2018: DATE OF NEXT MEETING;

The meeting was adjourned at 11.23am and the date of the next meeting was to be called on notice.

SIGNATURE.....for .....DATE.....12/9/18.....

(CHAIRPERSON: SEN. MWANGI PAUL GITHIOMI, MP.)

MINUTES OF THE 7TH MEETING OF THE SENATE SUB COMMITTEE OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON WEDNESDAY, 13TH MARCH, 2019 IN COMMITTEE ROOM 10, MAIN PARLIAMENT BUILDING AT 11.00 AM.

MEMBERS

1. Sen. Prengei Victor, M.P.
2. Sen. Mwaruma Johnes, M.P.

PRESENT

- Vice Chairperson
- Member

ABSENT WITH APOLOGY

1. Sen. Mwangi Paul Githiomi, M.P.
2. Sen. Godana Hargura, M.P.
3. Sen. George Khaniri, MGH, M.P.
4. Sen. Ndwiga Peter Njeru, EGH. M.P.
5. Sen. Halake Abshiro, M.P.
6. Sen. Boy Issa Juma, M.P.
7. Sen. Sylvia Kasanga, M.P.

- Chairperson
- Member
- Member
- Member
- Member
- Member
- Member

IN ATTENDANCE

1. Sen. John Nderitu Kinyua, M.P.
2. Sen. Michael Mbiti, M.P.

- Senator, Laikipia County
- Senator, Trans Nzoia County

PETITIONERS

1. Mr. Patrick Mwavula
2. Mr. Ephraim Mwangombe
3. Mr. Johnson Mwachala
4. Ms. Denence Gladys
5. Mr. Willy Mkubwa
6. Mr. Richard Mwambacha
7. Mr John Mungai
8. Mr. Lawrence Mwaura
9. Mr. John Mwaura
9. Mr. Ernest Ndungu
10. Ms. Teresia Wairimu
11. Mr. Peter Macharia
12. Mr. Joseph Kamau
13. Ms. Milcah Wangui
14. Mr. Isaack Mugo
15. Mr. Daniel Waragu Kurumenya
16. Mr. Charles Boro Gachema
17. Mr. James Kagwi
18. Ms. Mary Miano
19. Ms. Patricia Wangui

- Chairman (Taita-Taveta)
- Vice Chairman
- Secretary
- Assistant Secretary
- Treasurer
- Vice Organizer
- Kiang'ombe
- Kiang'ombe
- Kiang'ombe
- Kiang'ombe
- Kiang'ombe
- Kiang'ombe
- Kiang'ombe
- Kiang'ombe
- Kiang'ombe
- Laikipia
- Laikipia
- Laikipia
- Laikipia
- Laikipia

SENATE SECRETARIAT

- | | |
|-----------------------|--------------------------|
| 1. Mr. Njenga Njuguna | - Director of Committees |
| 2. Mr. Victor Bett | - Clerk Assistant |
| 3. Mr Mitchell Otoro | - Legal Counsel |
| 4. Mr Wilson Bosumet | - Seargent at Arms |
| 5. Ms Joyce Chelangat | - Audio Recording |
| 6. Ms Sharon Eleman | - Intern |

MINUTE SEN/SCLNR/036/2019: PRELIMINARIES

The meeting was called to order at 11.00am by the Vice Chairperson followed by a word of prayer.

MINUTE SEN/SCLNR/037/2019: ADOPTION OF AGENDA

The agenda was therefore proposed by Sen. Johnes Mwaruma, M.P. and seconded by Sen. Prengei Victor, M.P as follows;

1. Preliminaries;
 - *Prayer,*
 - *Vice Chairpersons remarks*
2. Adoption of the agenda;
3. Confirmation of Minutes;
4. **Meeting Petitioners as follows:**
 - (a) Petition by residents of Kiang'ombe Squatters Settlement Scheme in Thika on the alleged grabbing of the part of the land allocated for settlement of the Petitioners at Kiang'ombe Squatters Settlement Scheme in Thika sub-County, Kiambu County at 9.00am
 - (b) Petition by evictees from Marmanet Forest in Laikipia County on the compensation and resettlement of evictees from Marmanet Forest in Laikipia County at 10.00am
 - (c) Petition by residents of Mwatate Constituency, Taita Taveta County on the ownership of Mgeno Land Reserve at 11.00am
5. Any other Business;
6. Date of the next meeting;
7. Adjournment.

MINUTE SEN/SCLNR/038/2019: CONFIRMATION OF MINUTES

The Committee differed the confirmation of minutes of previous sittings to the next sitting.

MINUTE SEN/SCLENR/039/2019: PRESENTATION BY PETITIONERS

(a) Petition by residents of Mwatate Constituency, Taita Taveta County on the ownership of Mgeno Land Reserve

The Petitioners submitted their evidence/supporting documents to the Committee. Thereafter the Petitioners defended their Petition as follows:

The Land in question was meant for animals to graze. In their attachment they have attached minutes indicating how the allocation of the parcels of land was done. They even were not supposed to do any burials in the land.

Later, encroachment began with government officials being among the persons invading their alleged piece of land. The Petitioners further informed the Committee that they are even not allowed to enter into the land as most of it has minerals and invaders have cordoned it off.

They informed the Committee that during the previous regime before the passage of the new Constitution, 2010 and the advent of devolution, the former local authorities recognized the community and always consulted them in planning for the land use but after devolution set in there were a lot of issues that came up. Among the concerns raised were that County officials are allegedly also involved in taking their parcels of land. Permanent structures are being built, illegal settlers have since settled and some titles were issued especially on the Northern side. They informed the Committee that Government land should have been only 6,000 acres. Mining of minerals is also being done without the community's consent.

Their prayer is that,

- Since the land is for the Community, it is then returned to them. They began petitioning since 2001;
- Ndarapi in Voi have a title but the land is theirs and that it be revoked;
- Requesting gazettelement of their committee;
- Requesting survey by Government for the Petitioners to know the actual size of their land;
- Mgeno Community land to be surveyed and one title deed for the whole land is issued to them and the title deeds for the illegal settlers be revoked.

(b) Petition by residents of Kiang'ombe Squatters Settlement Scheme in Thika on the alleged grabbing of the part of the land allocated for settlement of the Petitioners at Kiang'ombe Squatters Settlement Scheme in Thika sub-County, Kiambu County

The Petitioners began by informing the Committee that they were allocated land in Makongeni by the First President of Kenya, Mzee Jomo Kenyatta but the process of

demarcation of the parcel of land and issuance of title documents to the squatters took long resulting to private developers grabbing part of the land.

Their initial allocation was 38.4 Ha and have allotment letters to that effect. Following their earlier request for reimbursement, they informed the Committee that the 2003 map that showed their parcel of land has since been withdrawn from the Ministry of Lands. After following up they emerged a 2009 map that had allegedly subdivided the land and they were informed to take what was left of the land. From the earlier 95 acres to now 67 acres.

They informed the Committee that invaders now have titles to the land even though they allege NLC and DCI were in agreement that the land belongs to the Petitioners. Investors are claimed to be putting up perimeter fences and have so far encroached into land set aside for a school. Efforts to have the Title documents issued to the private developers cancelled and the land reverted to its rightful owner proved futile.

Their prayer was that the committee ensures that the squatters be issued with title deeds for the plots given to them and the Ministry of Lands and NLC to revoke the title deeds which were given to the alleged grabbers illegally.

(c) Petition by evictees from Marmanet Forest in Laikipia County on the compensation and resettlement of evictees from Marmanet Forest in Laikipia County

The evictees from Marmanet Forest in Laikipia County began by informing the Committee that their forefathers were settled by the Government from 1961-1964 where they became original inhabitants of Marmanet Forest and the Government of Kenya was aware of their settlement.

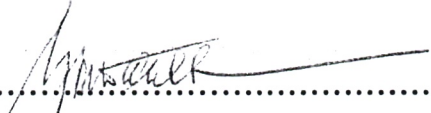
The problems began in 1988 where the settlers were violently evicted from Marmanet Forest by the Government through the Ministry of Environment and Natural Resources and have since then never been resettled. Marmanet Forest was then allocated to other people who cleared the forest of its vegetation and converted it to farms. They alleged the eviction was inconsiderate in its timing hence their children's education was disrupted as a result and they also incurred losses in terms of their crops and animals, and also destruction of properties. The petitioners therefore requested that they be resettled by the Government and be compensated of the property they lost and direct that academic certificates for those who sat for Kenya Certificate for Primary Education be availed to the owners who were affected at the time of eviction.

MINUTE SEN/SCLENR/040/2019: ANY OTHER BUSINESS;

There was no other business discussed. **MINUTE SEN/SCLENR/035/2019:**

DATE OF NEXT MEETING

The meeting was adjourned at 2.20 pm and the next meeting was to be called on notice.

SIGNATURE.....  **DATE.....** 19/6/19

(CHAIRPERSON: SEN. MWANGI PAUL GITHIOMI, MP.)

