

REPUBLIC OF KENYA



OFFICE OF THE AUDITOR-GENERAL

Enhancing Accountability



REPORT

THE NATIONAL ASSEMBLY
PAPERS LAID

PARLIAMENT
OF KENYA
LIBRARY

OF

DATE: 06 MAY 2021

DAY: Thursday

TABLED BY:

Leader of Majority Party

NAME OF MEMBER:

Muliga P

THE AUDITOR-GENERAL

ON

**NATIONAL ENVIRONMENTAL
COMPLAINTS COMMITTEE**

**FOR THE YEAR
ENDED 30 JUNE, 2019**



OFFICE OF THE AUDITOR GENERAL
P. O. Box 30034 - 00100, NAIROBI
REGISTRY

8 - MAY 2020

RECEIVED

NATIONAL ENVIRONMENTAL COMPLAINTS COMMITTEE

ANNUAL REPORT AND FINANCIAL STATEMENTS FOR THE 2018/2019 FINANCIAL YEAR

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


 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 06 MAY 2021	DAY: <input type="text"/>
TABLED BY:	<input type="text"/>
CLERK-AT THE TABLE:	<input type="text"/>

Table of Contents

KEY ENTITY INFORMATION AND MANAGEMENT	3
STATEMENT OF RESPONSIBILITIES	6
MANAGEMENT DISCUSSION AND ANALYSIS	9
SUMMARY TABLE OF NECC'S ACTIVITIES DURING THE REPORTING PERIOD	1
STATEMENT OF FINANCIAL PERFORMANCE FOR THE YEAR ENDED 30TH JUNE 2019 ..	14
STATEMENT OF FINANCIAL POSITION AS AT 30TH JUNE 2019	15
STATEMENT OF CHANGES IN NET ASSETS FOR THE YEAR ENDED 30 JUNE 2019	16
STATEMENT OF CASHFLOWS FOR THE YEAR ENDED JUNE 30, 2019	17
STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS FOR THE YEAR ENDED 30 JUNE 2019	18
NOTES TO THE FINANCIAL STATEMENTS	Error! Bookmark not defined.
Appendix I: PROGRESS ON FOLLOW UP OF AUDITOR RECOMMENDATIONS	27
Appendix II: INTER-ENTITY TRANSFERS	28

1000000000

KEY ENTITY INFORMATION AND MANAGEMENT

(a) Background information

The National Environmental Complaints Committee (NECC), herein referred to as the Committee, is established under Sections 31 to 36 of the Environmental Management and Co-ordination Act (Cap 387 of the Laws of Kenya) (Previously cited as Act No. 8 of 1999). It was formerly known as the Public Complaints Committee but was renamed when the law was amended in 2015 (EMCA (Amendment) 2015). The first Committee was formally constituted and launched by the then Minister in August 2001. The Committee started full operations in January 2003. Its mandate is to investigate allegations or complaints regarding the condition of the environment in Kenya, or on its own motion, suspected cases of environmental degradation. NECC is domiciled in Kenya and its offices are in Bellevue area in Nairobi. It is an important institution in the assessment of the condition of the environment in Kenya. It plays an important role in the facilitation of alternative dispute resolution mechanisms relating to environmental matters. NECC makes recommendations to the Cabinet Secretary and thus contributes significantly to the formulation and development of environmental policy.

(b) Principal Activities

The Principal activity of NECC is to investigate the degradation of the environment. Its mission and vision are as follows;

Vision: To be the leading environmental ombudsman in Africa

Mission: To facilitate access to environmental justice to the public by providing a forum for expeditious and affordable environmental conflict resolution and to contribute to environmental policy development.

The Principal activity of the National Environmental Complaints Committee is to conduct in-depth investigation of any allegations against any person in relation to the condition of the environment in Kenya or on its own motion; any suspected case of environmental degradation. Further, parliament through Section 32 of EMCA mandates NECC to: prepare and submit to the Cabinet Secretary periodic reports of its activities which report shall form part of the annual report on the state of the environment; undertake Public Interest Litigation (PIL) on behalf of the citizens in environmental matters and to perform such other functions and exercise such powers as may be assigned to it by the Cabinet Secretary.

(c) Entity Headquarters

National environmental Complaints Committee Headquarters
P. O. Box 36256 - 00200
Bellevue Area, Popo Road off Mombasa Road
DRSRS Building
Nairobi, KENYA

(d) Entity Contacts

Telephone (254) 0202405782
Email: necc.environment@gamil.com
Website: www.pccenvironment.or.ke
Hotline: 0722510510

(e) Entity Bankers

Kenya Commercial Bank
KCB Capital Hill Branch
P. O. Box 69695 – 00400
Nairobi, KENYA

(f) Independent Auditors




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

(g) Principal Legal Adviser

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

KEY ENTITY INFORMATION AND MANAGEMENT (Continued)

(h) Board Members

 <p>Ms. Felicity Biriri Member</p>	<p>DATE OF BIRTH: 11TH OCTOBER 1968</p> <p><u>Education Background</u></p> <ul style="list-style-type: none"> • BA HRM (Kenyatta University) • Master in Peace Management and Conflict Resolution (Kenyatta University) <p><u>Work Experience</u> 17 year experience</p>
 <p>Ms. Isabella Masinde Member</p>	<p><u>Education Background</u></p> <ul style="list-style-type: none"> • BSC- Biology 1986 :UEA-Baraton • MSC-Ecology 1989 :Aberdeen University (Scotland) • 1994-Environmental Assessment and Management (CEMP) Aberdeen <p><u>Work Experience</u></p> <ul style="list-style-type: none"> • Senior Researcher at KWS in charge of Ecological Monitoring • Task Manager at UNEP for the Global Biodiversity Assessment • Biodiversity Policy Officer at WWF in Treaties and Agreements Division • Team Leader at ITDG (Practical Action) in the Rural Livelihoods Programme (Reducing Vulnerability) • CEO at Clout • Climate Change Advisor at AWF • Technical Advisor at the Ministry of Environment and Natural Resources <p><u>Boards</u></p> <ul style="list-style-type: none"> • Member of NEPAD Climate Change Fund in South Africa • Member of NEMA Board up to 2010 <p>Now member of NECC</p>
 <p>Ms. Caroline Wanyonyi Member</p>	<p><u>Education Background</u></p> <ul style="list-style-type: none"> • LLB (Nagpur University) • Dip Law (KSL) • Certified Professional Mediator (MTI) <p><u>Work Experience</u></p> <ul style="list-style-type: none"> • Advocate of the High Court of Kenya (2002) • Commissioner of Oaths (2008) • Litigation experience of 14 years • National Land Commission County Coordinator, Kakamega (2014) • Now Member of NECC <p><u>Professional Membership</u></p> <ul style="list-style-type: none"> • Law Society of Kenya (LSK) (2002) • Fida Kenya (FIDA) (2005) • Mediation Training Institute (CPM) 2018 <p><u>Boards</u></p> <ul style="list-style-type: none"> • Law Society of Kenya (LSK) 2010-2015 • Federation of Women Lawyers (FIDA) 2008-2011



 <p>Ms. Sylvia Kone Member</p>	<ul style="list-style-type: none"> • Chesamisi High School Vice Chair, Board of Management <p>DATE OF BIRTH: 29TH JUNE 1977</p> <p><u>Education Background</u></p> <ul style="list-style-type: none"> • MBA Leadership and Sustainability (Cumbria University, U.K) • BBA (KEMU) • Diploma in Community Based Project Planning and Management <p><u>Work Experience</u></p> <ul style="list-style-type: none"> • Administration Manager, Ewaso Nyiro South Development Authority (ENSDA) • Administration Manager, IBL (12 years) • Administrator, Ikerin Loita Integrated Development Project <p><u>Boards</u></p> <ul style="list-style-type: none"> • Member, Narok County Environment Stakeholders Community • Member, Kenya Institute of Management (KIM)
 <p>Dr. John K. Chumo Committee Secretary</p>	<p>DATE OF BIRTH: 1972</p> <p><u>Education Background</u></p> <ul style="list-style-type: none"> • BSC- Mathematics and Computer Science/JKUAT • Mphil/Phd in Environmental Studies(Environmental Information Systems) <p><u>Work Experience</u></p> <ul style="list-style-type: none"> • Environmental Lecturer, University of Eldoret • EIA Expert/Consultant • County Executive Member, Lands, Environment and Natural Resources, Nandi County • Chairman, County Ministers Council in charge of Environment and Natural Resources • Head of Department, Chemical Technology, Eldoret National Polytechnic

(i) Board Committees

Name of the Sub-Committee	Members
Finance Human Resource and Administration Committee	<ol style="list-style-type: none"> 1. Felicity Biriri 2. Ms. Caroline W. Khasoa 3. Dr. John K. Chumo
Audit	<ol style="list-style-type: none"> 1. Sylvia M. Kone 2. Ms. Isabella A. Masinde
Public Interest Litigation	<ol style="list-style-type: none"> 1. Ms. Caroline W. Khasoa 2. Mr. Jeremiah M. Motari 3. Ms. Felicity N. Biriri 4. Dr. John K. Chumo
Investigations	<ol style="list-style-type: none"> 1. Ms. Isabella A. Masinde 2. Ms. Sylvia M. Kones 3. Mr. Jeremiah M. Motari

KEY ENTITY INFORMATION AND MANAGEMENT (Continued)

(a) **Key Management** *(it should be as they appear in the annual financial statements and should be key personnel of the entity involved in Key decision making and running of the entity)*

Name of the Staff	Responsibility
 <p>Mr. Fredrick Olendo <u>Bachelor of Commerce (Accounting), UoN</u> <u>MBA (on-going) UoN</u></p>	<p>Head of Administration</p>
 <p>Mr. Duncan Kombo Accountant CPA II A Levels Over 29 years' experience in Government finance</p>	<p>Head of Finance</p>

STATEMENT OF RESPONSIBILITIES

Section 83 of the Public Finance Management Act, 2012 requires an Accounting Officer for National Government owned Entity to prepare a report for each quarter of the financial year in respect of the entity.

In preparing a quarterly report for a National Government Entity, the Accounting Officer shall ensure that the report:

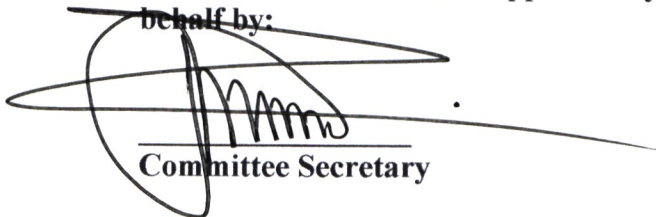
- (a) Contains information on the financial and non-financial performance of the entity; and
- (b) Is in a form that complies with the standards prescribed and published by the Public Sector Accounting Standards Board of Kenya from time to time.

In addition, not later than fifteen days after the end of each quarter, the Accounting Officer shall submit the quarterly report to the Cabinet Secretary responsible for the entity and the National Treasury. The Cabinet Secretary responsible for an entity shall forward a copy of the report to the Cabinet Secretary and Controller of Budget.

In the case of an entity that is a state corporation, the Accounting Officer for the corporation shall submit the quarterly report to the Cabinet Secretary responsible for the corporation who shall, upon approving it, forward a copy to the Cabinet Secretary.

Approval of the quarterly financial statements

The NECC's quarterly financial statements have been prepared in accordance with Section 83 of the PFM Act and were approved by the Board on 07/04/2020 ~~2019~~ and signed on its behalf by:



Committee Secretary

(The signatories titles should be in line with the entities structure ie some may have different titles not necessarily the director)

MANAGEMENT DISCUSSION AND ANALYSIS

In the months of July and August, the research office investigated 26 complaints in Nairobi and its environs. The investigation reports have been compiled and they are pending final review by the Committee before signing and dispatch to the respective parties. In Karen, the issue of effluent discharge into the open environment took prominence. Six complaints were investigated on effluent management in Karen area alone. Some unscrupulous individuals were taking advantage of the rainy season and pumping sewage from their septic tanks into the storm drains. The effect is a foul odour in the area and health hazard to the residents. There is no central sewer system in Karen area. People in Karen rely on septic tanks which are exhausted when full. There is tendency to discharge untreated sewage into storm drains during rainy seasons and at night in Karen. The Public Health had attempted to solve the dumping of sewage in the pond but their efforts had not been successful.

On the evening of Wednesday 9th May 2018, a dam in a farm in Solai area of Nakuru County burst. The flood water swept off several houses. About 48 persons were confirmed dead. Authorities believe approximately 2,000 people were left homeless. Possible reasons of the collapse of the dam include the unusual high volumes of water caused by inflow or high rainfall which releases hydrostatic force that can collapse the walls of a dam. Due to soil moisture saturation, the hillside may become unstable and experience a landslide. The soil displaces the water and it topples over a section of the embankment making it to collapse. Outdated designs and lack of maintenance of the dam infrastructure and changes in land use practices, for instance conversion of forest lands to farm lands.

Another area that NECC investigated in the report period is encroachment onto riparian reserves. A case in point is Strathmore University students hostels next to Ngong River and adjacent to Total petrol station along Ole Sangale Rd, Madaraka, Nairobi County.

In another incidence, sugar companies have been habitually accused of disposing effluent into rivers. During the report period, NECC investigated such allegations against Transmara Sugar Company and West Kenya Sugar Company. Effluent was released into the environment, polluting the water used by other communities downstream. The leachate also affected plants.

Encroachment onto riparian reserves extended into the oceans. NECC investigated an allegation of a development on a public beach in Shanzu area of Mombasa County. While making recommendations regarding the sea front, NECC recommended that There is an urgent need for both the National and county governments in the coastal strip and other key stakeholders to enforce existing laws and policies geared towards protecting the riparian areas. There should be regular review of the legal, policy and institutional framework for protecting the riparian areas and reclaiming land from the Indian Ocean. Further, the Government should harmonise and coordinate the role of the various regulatory agencies charged with the management of coastal and marine resources and also harmonize the various laws and policy frameworks on the definition of the riparian area.

In regards to forest issues in Kenya, NECC investigated allegations of the degradation of the Maasai Mau forest. Investigations revealed that encroachment into forest land has caused environmental degradation of the Mau forest ecosystem. All the forest blocks of the Mau forest are gazetted except the Maasai Mau that is trust land and managed by the County Government of Narok. There was an ongoing multi-agency operation to remove people who have encroached into the Maasai Mau forest block and the Kenya Forest Service has impounded charcoal and timber that had been illegally harvested from the forest. From the consultative meeting with the stakeholder, there was no clear

cutline to mark the forest boundaries. Past attempts to evict people within the forest had not succeeded as people returned to the forest.

Wetlands are a threatened ecosystem that helps in stabilizing the water cycle, and a home to endemic biodiversity. NECC investigated complaints on the degradation of Ondiri Swamp and found out that the swamp is an important water resource for both Kiambu and Nairobi counties as it is the main recharge area for its groundwater. Some of the water pumps in the swamp are unmetered and the farms did not have the reservoirs to hold water. Therefore over abstraction of water is likely to occur. According to WRA, some of the water pumps were illegal. The greenhouses and other horticultural farms encroached close to the swamp and are situated on the steep slopes that drain into the swamp. Therefore, agricultural chemicals are likely to be swept by surface runoff into the swamp. Kikuyu town did not have a central sewer system and therefore untreated sewer ended up in the swamp, causing pollution. The storm drains along the Southern by-pass drain into Ondiri swamp. WRA had marked the riparian reserves of the Ondiri swamp and were in the process of gazetting both Kikuyu Spring and the Ondiri swamp. The management of the Ondiri swamp is being undertaken by different stakeholders independently. The stakeholders include the local community, Water Resources Authority, NEMA, County Government of Kiambu.

NECC also investigated complaints regarding Kibarani dumpsite in Mombasa. Investigations showed that the dumpsite was being decommissioned by County Government of Mombasa. Mombasa Cement was managing waste for the County as part of its Corporate Social Responsibility. They had planted Casuarina on the land in Kibarani without proper EIA process. Water Resources Authority had issued a stop order to the Mombasa County; it was to stop pollution of Makupa Creek by the pushing of waste from Kibarani dumpsite into the sea. The Kibarani site was a potential cause of air-borne diseases. Despite all the efforts by NEMA and other government agencies, the pushing of the waste into sea continued and some structures had been built on/around the Kibarani dumpsite.

Quarrying activities still pose a danger to environmental conservation. In thika, NECC investigated a complaint where blasting had been carried out and caused damage to houses, including a school located over a kilometre away. NECC recommended that the Government should enforce the comprehensive policy on quarrying in the whole country. The policy will be able to address the unique problems attendant to quarrying such as, environmental degradation, rehabilitation, licensing and enforcement of the relevant laws as well as strike a balance between the need to resolve this and the economic benefit the quarrying industry brings.

In terms of awareness creation and public participation, NECC was able to conduct several sessions with members of the public. This created a forum to enhance the visibility of NECC and also address environmental complaints from the residents. Some of the *barazas* were held in Shamberere in Kakamega County, Solai in Nakuru County and Transmara in Narok County

For many years, there has been a raging debate on the growing of blue gum, especially near water sources and along river banks. Eucalyptus trees have been blamed for the drying up of water sources across the country. In Nyandarua, the issues around Eucalyptus include the encroachment into Lake Olbolosat. Another complaint is where the Eucalyptus is planted along a common boundary, where its allelopathic properties affect crop production on neighbouring farmland.

As part of its Corporate Social Responsibility (CSR), NECC was in Inyanzaa area in Kivaa Ward, Masinga Sub-county in Machakos County on 19th October 2018 to appreciate the conservation efforts by Inyanzaa Clean Sand Community. This is an organized group of residents who have put concerted

efforts to conserve River Inyanzaa by constructing sand dams across the river to store water. The sand dam will ensure availability of water to the community throughout considering that the area is arid. Through NECC support, the community managed to construct a well in the sand dam.

The Publicity Department has embarked on developing the Communication Strategy. A Communication strategy is a blueprint for an organization's procedures and processes of both internal and external communication. The outline and layout has been identified borrowing from sister institutions' strategies.

On 21st March 2019, NECC was involved in the commemoration of the International Day for Forests in Bondo Teachers Collage in Siaya County. NECC had an exhibition stand and a number of participants visited the stand including local leaders, other lead agencies, students from learning institutions and the local residents.



(NECC Photo: 21.03.2019)

Figure 43: The Cabinet Secretary, The Governor of Siaya County and the Chief Administrative Secretary at the NECC exhibition stand

World Metrological Day 2019 was held at Esibila primary school in Vihiga County. The event was graced by Cabinet Secretary Ministry of Environment and Forestry. Speaking at the event, Mr. Tobiko promised to distribute 3000 seedlings among the primary and secondary schools in Vihiga County. This is in support of the President's directive of 10% tree coverage by the year 2020. Vihiga Governor Mr. Wilberforce Otichillo who was present at the event said his government is willing to fully support the initiative by planting bamboo trees to enhance environmental conservation. Mr. Tobiko urged the leaders to fully support the government in conservation of the environment. Also present at the event were Emuhaya MP Mr. Omboko Milemba, County Commissioner Ms. Susan Waweru, NECC Secretary, Dr. John Chumo among other heads of sections from the Ministry of environment and Forestry.



(NECC photo 23/03/2019)

Figure 45: The Cabinet Secretary, Mr. Keriako Tobiko watering a tree assisted by NECC Secretary, Dr. John Chumo

NECC also participated in the commemoration of the World Day to Combat Desertification. The event was held in Makindu, Makueni County under the theme “**Let’s Grow the future together**”. The build-up activities for the event included clean-up in Makindu Market, growing of 3000 tree seedlings in at least 23 schools and a visit to Kiboko oil spill area. NECC had an exhibition stand and 6 complaints were received. The event was graced by the Cabinet Secretary, Ministry of Environment and Forestry.



(NECC Photo: 17.06.19)

Figure 50: The Chief Administrative Secretary for Environment and Forestry, Mohammed Elmi, at the NECC stand during WDCD at Makindu

SUMMARY TABLE OF NECC'S ACTIVITIES DURING THE REPORTING PERIOD

No.	Activity	Numbers	Remarks
1.	Investigations	107	Field investigations and preparation of findings and recommendations on investigated complaints across the country
2.	Workshops and trainings	4	Aimed at capacity building at NECC
3.	Wetlands	5,000	The estimated number of people sensitized on the importance of conserving wetlands during the World Wetlands Day
4.	Awareness Creation	200,000	The estimated number of people sensitized on environmental conservation after visiting NECC's exhibitions during UNEA 4, Conference on the Blue Economy, National Tree Planting launches, World Meteorological Day, World Environment Day and World Day to Combat Desertification, amongst others
5.	Public Interest Litigation	4	Workshops held to develop a strategy to implement PIL and develop a manual
6.	Corporate Social Responsibility	2	Events held in Inyanzaa, Machakos County and Shamakhokho in Kakamega County on CSR

SECTION C

Key projects and investment decisions the entity is planning/implementing

None

SECTION D

Major risks facing the entity

Operational Risks – mainly

- Internal & external fraud
- Failure to adhere to internal policies
- Catastrophic events
- Computer hacking
- Budget cuts/funding

SECTION E

Material arrears in statutory/financial obligations

None

SECTION F

The entity's financial probity and serious governance issues

None

REPUBLIC OF KENYA

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



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

REPORT OF THE AUDITOR-GENERAL ON NATIONAL ENVIRONMENTAL COMPLAINTS COMMITTEE FOR THE YEAR ENDED 30 JUNE, 2019

REPORT ON THE FINANCIAL STATEMENTS

Opinion

I have audited the accompanying financial statements of National Environmental Complaints Committee set out on pages 14 to 27, which comprise of the statement of financial position as at 30 June, 2019, statement of financial performance, statement of net assets, statement of cash flows and the statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, the financial statements present fairly, in all material respects, the financial position of the National Environmental Complaints Committee as at 30 June, 2019, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Accrual Basis) and comply with the Environmental Management Act, 1999 and its amendments of 2015, EMCA (Amendment) 2015 and the Public Finance Management Act, 2012.

Basis for Opinion

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

Key Audit Matters

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

Other Matter

Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised. However, the Management has not resolved all the issues in adherence to the provisions of the Public Sector Accounting Standards Board (PSASB) templates and The National Treasury's Circular.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

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

Basis for Conclusion

Irregular Appointment of Head of Administration

The establishment and operations of the Committee are governed by the Environmental Management and Co-ordination Act, Cap. 387 of 1999 and amended in 2015. The Act provides who shall constitute Committee Members. Staff appointments in the Committee are supposed to be governed by the Public Service Commission regulations, policies and procedures. However, the Committee in its monthly meeting held on 29 September, 2016 resolved to appoint the former Committee Secretary as an administrator in the organization effective 1 July, 2016. However, Management did not avail approval from the Public Service Commission and the appointment letter.

In the circumstance, the Committee is in breach of the law.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, I confirm that, except for the matters described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance

section of my report, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

1. Inadequate staff Establishment

The Management has not put in place the required staff to assure proper operations of internal controls in cash management and segregation of other duties. This situation puts the Committee at risk of loss in case of failure of the controls. As a result, the Committee does not have an established Internal Audit Unit and relies on the auditors from the National Environment Management Authority. Further, the Committee does not have a Risk Assessment Strategy in place. Similarly, this situation undermines the control the Board has on its staff as well as Management as the internal audit lacks independence to give objective assurance in evaluation and improvement of the effectiveness of risk management, control and governance processes.

In the circumstance, the effectiveness of the internal control and risk management could not be confirmed.

2. Lack of a Functional Board of Directors

During the year under review, the Board operated without a Chairman and the Board was not fully constituted to enable delivery of its mandate in maintaining and preserving the environment for the present and future generation.

In the circumstance, I am unable to confirm existence of an effective overall governance structure.

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

Responsibilities of Management and Board of Directors

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

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

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

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

The Board of Directors is responsible for overseeing the financial reporting process, reviewing the effectiveness of how the Committee monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to overall governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

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

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

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

to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

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

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

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

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

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


Nancy Gathungu
AUDITOR-GENERAL

Nairobi

07 April, 2021

STATEMENT OF FINANCIAL PERFORMANCE FOR THE YEAR ENDED 30TH JUNE 2019

	Note	2018-2019	2017-2018
Revenue			
		Kshs.	Kshs.
Government Grant	6	93,100,000.00	94,235,000.00
		93,100,000.00	94,235,000.00
Expenses			
Employee costs	7	4,351,539.00	4,097,113.00
Remuneration to Committee Members	8	4,998,299.00	8,032,000.00
Depreciation and amortization Expenses	9	840,443.00	782,940.00
Repair and Maintenance	10	1,026,938.00	616,765.00
General Expenses	11	82,821,773.00	82,148,951.00
Total expenses		94,038,992.00	95,677,769.00
Surplus/Deficit for the period before tax		(938,992.00)	(1,442,769.00)

Attributable to;

Surplus/Deficit attributable to owners of the controlling entity

(938,992.00)

STATEMENT OF FINANCIAL POSITION AS AT 30TH JUNE 2019


	Note	2018-2019	2017-2018
			Kshs
Assets			
Current assets			
Cash and cash equivalents	12	6,087.00	1,123,136.00
Receivables from Non-Exchange Transactions		0	8,334,000.00
Total Current Assets		6,087.00	1,123,136.00
Non-current assets			
Property, Plants & Equipment	13	3,064,613.00	2,886,556.00
Total Assets		3,070,700.00	12,343,692.00
Current liabilities			
Trade and other Payables	14	314,000.00	8,648,000.00
Represented by;			
Accumulated surplus 2018/2019		2,756,700.00	3,695,692.00
Total Assets		3,070,700.00	12,343,692.00

The Financial Statements set out on pages 14 to 26 were signed on behalf of the Board of Directors by:

Head of Finance
 Duncan M. Kombo

Sign

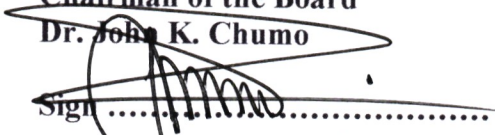
Date.....


 07/04/2020

Chairman of the Board
 Dr. John K. Chumo

Sign

Date.....


 07/04/2020

STATEMENT OF CHANGES IN NET ASSETS FOR THE YEAR ENDED 30 JUNE 2019

Attributable to the owners of the controlling entity		
	Accumulated surplus	Total
	Kshs	Kshs
Balance as at 1 July 2017	5,138,461.00	5,138,461.00
Surplus/(deficit) for the period 2017/2018	(1,442,769.00)	(1,442,769.00)
Balance as at 30 June 2018	3,695,692.00	3,695,692.00
Deficit for the period 2018/2019	(938,992.00)	(938,992.00)
Balance as at 30 June 2019	2,756,700.00	2,756,700.00

STATEMENT OF CASHFLOWS FOR THE YEAR ENDED JUNE 30, 2019

		2018-2019	2017- 2018
			Kshs
Cash flows from operating activities			
Receipts			
Government grants and subsidies	6	93,100,000.00	94,235,000.00
		-	417,520.00
Total Receipts		93,100,000.00	94,652,520.00
Payments			
Remuneration to Committee Members	8	(3,624,900.00)	(2,383,500.00)
Employees costs	7	(9,349,838.00)	(6,480,613.00)
General Expenses	11	(83,848,710.00)	(88,124,216.00)
Total Payments		(93,198,548.00)	(94,604,829.00)
Net cash flows from operating activities	17	(98,548.00)	47,691.00
Cash flows from investing activities			
Purchase of property, plant, equipment	13	(1,018,500.00)	
Net cash flows used in investing activities		(1,018,500.00)	
Cash flows from financing activities			47,691.00
Net cash flows used in financing activities		0	
Net increase/(decrease) in cash and cash equivalents		(1,117,048.00)	47,691.00
Cash and cash equivalents as at 1 JULY	12	1,123,136.00	1,075,455.00
Cash and cash equivalents as at 30 JUNE	12	6,087.00	1,123,136.00

STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS FOR THE YEAR ENDED 30 JUNE 2019

	Original budget 2018-2019	Adjustments /supplementary 2018-2019	Final budget 2018-2019	Actual on comparable basis 2018-2019	Performance difference 2018-2019	% change	NOTE S
Revenue	Kshs	Kshs	Kshs	Kshs	Kshs		
Government grants and subsidies	93,100,000.00		93,100,000.00	93,100,000.00	-		
Total in come	93,100,000.00		93,100,000.00	93,100,000.00	-		
Expenses							
Compensation of employees	9,000,000.00		9,000,000.00	9,349,838.00	(349,838.00)	3.40	1
Goods and services	84,100,000.00		84,100,000.00	84,689,154.00	(589,154.00)	0.70	2
Total expenditure	93,100,000.00		93,100,000.00	94,038,993.00	-	-	
Deficit for the period	-		-	(938,992.00)	(938,992.00)		

Notes

1. The 3.4% change in budget was due to increase in casual employment
2. The 0.7% was not material as the budget was within the approved amount.

NOTES TO THE FINANCIAL STATEMENTS (Continued)

6. Transfers from other governments

Description	2018-2019	2017-2018
	Kshs.	KShs
Unconditional grants		
Operational grant	93,100,000.00	94,235,000.00
Conditional grants		
National housing grant		-
Total government grants and subsidies	93,100,000.00	94,235,000.00

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

7. (a) Employee costs

	2018-2019	2017-2018
	Kshs.	Kshs
Casual	292,851.00	156,280.00
Stipend	3,191,555.00	3,051,114.00
NHIF	94,500.00	-
NSSF	39,480.00	-
PAYE	733,153.00	889,719.00
Total	4,351,539.00	4,097,113.00

7 (b) TAXATION

	2018-2019	2017-2018
	Kshs	Kshs
At beginning of the year		
Income tax charge for the year (note 27)		
Under/(Over) provision in prior year/s (note 27)		
Income tax paid during the year		
At end of the year	733,153.00	889,719.00

8. Committee expenditure

Description	2018-2019	2017-2018
	Kshs.	Kshs.
Sitting	1,373,399.00	2,383,500.00
Subsistence	2,479,700.00	2,205,900.00
Travel	1,145,200.00	3,442,600.00
Total	4,998,299.00	8,032,000.00

9. Depreciation and amortization expense

Description	2018-2019	2017-2018
	Kshs.	Kshs
Property ,plant and equipment	840,443.00	782,940.00
Total depreciation and amortization	840,443.00	782,940.00

10. Repairs and maintenance

Description	2018-2019	2017-2018
	Kshs.	KShs
Vehicles	1,026,938.00	616,765.00
Total repairs and maintenance	1.026,938.00	616,765.00

11. General expenses

Description	2018-2019	2017-2018
	Kshs	KShs
Air ticket	1,962,976.00	1,750,234.00
Boards Conferences and delegations	13,541,867.00	9,738,880.00
Hospitality	13,547,247.00	13,880,472.00
Fuel and oil	1,070,000.00	1,100,000.00
Audit Fees	580,000.00	290,000.00
Insurance	468,512.00	279,446.00
Internet & Supplies	599,586.00	845,050.00
Training	186,200.00	4,750,305.00
Domestic travel & others	48,740,518.00	49,514,564.00
Others	2,124,867.00	-
Total general expenses	82,821,773.00	82,148,951.00

12. (a) Cash and cash equivalents

Description	2018-2019	2017-2018
	Kshs	KShs
Cash book balance	6,087.00	1,123,136.00
Cash on-hand and transit	-	-
Total cash and cash equivalents	6,087.00	1,123,136.00

NATIONAL ENVIRONMENTAL COMPLAINTS COMMITTEE
 FINANCIAL STATEMENTS FOR THE YEAR ENDED 30TH JUNE 2019

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

12 (b). Detailed analysis of the cash and cash equivalents

		2018-2019	2017-2018
Financial institution	Account number	KShs	kshs
a) Current account			
Kenya Commercial bank	1103172972	6,087.00	1,123,136.00
Sub- total		--	
COMMUNITY BRANCH			
b) On - call deposits			
Sub- total			
c) Fixed deposits account			
Sub- total			
d) Staff car loan/ mortgage			
Sub- total			
e) Others(specify)			
cash in hand		-	
Sub- total		-	
Grand total		6,087.00	1,123,136.00

13. Property, plant and equipment 2018-2019

	Motor vehicles	Furniture and fittings	Computers	Total
	25%	12.50%	33.30%	
Cost	Kshs.	Kshs.	Kshs.	Kshs.
At 1 July 2017	7,830,843.00	2,797,109.00	2,441,744.00	13,069,696.00
Disposals	-	-	-	-
Transfers/adjustments	-	-	-	-
At 30th June 2018	7,830,843.00	2,797,109.00	2,441,744.00	13,069,696.00
Additions – 2018-2019	0	481,480.00	537,020.00	1,018,500.00
As at 30 June, 2019	7,830,843.00	3,278,589.00	2,978,764.00	14,088,196.00
Depreciation and impairment				
At 1st July 2017	5,485,373.00	1,622,453.00	2,292,374.00	9,400,200.00
Charge for the year 2017/18	586,368.00	146,832.00	49,740.00	782,940.00
At 30th June 2018	6,071,741.00	1,769,285.00	2,342,114.00	10,183,140.00
Charge for the year	439,776.00	188,663.00	212,004.00	840,443.00
As at 30th June 2019	6,511,517.00	1,975,948.00	2,554,118.00	11,023,583.00
Net book values	-	-	-	-
At 30th June 2019	1,319,326.00	1,320,641.00	424,646.00	3,064,613.00
At 30th June 2018	1,759,102.00	1,027,824.00	99,630.00	2,886,556.00

NECC Depreciation Computation for Year 2018/2019

	Motor Vehicles	Furniture and fittings	Computers	Total
Cost at June 2019	7,830,843.00	3,278,589.00	2,978,764.00	
Depreciation to June 2018	6,071,741.00	1,769,285.00	2,342,114.00	
Net	1,759,102.00	1,509,304.00	636,650.00	
Rate	25%	12.50%	33.30%	
Depreciation Charge	439,775.50	188,663.00	212,004.45	840,442.95.00

14. Trade and other payable

	2018-2019	2017-2018
	KShs	KShs
NEMA	24,000.00	24,000.00
Audit Fees	290,000.00	290,000.00
Trade Payables	-	8,334,000.00
Total	314,000.00	8,648,000.00

- There was a receivable from NEMA in the prior year in respect of one Mr. D. Nyamora of Kshs.393,510. The amount received from NEMA was Kshs.417,520, thus resulting in a payable figure of kshs.24,000.

15. A & b STATEMENT OF CHANGE IN NET ASSETS FOR THE YEAR ENDED 30 JUNE 2018

	Attributable to the owner of the controlling entity					
	Insurance reserve	Capital reserve	Valuation reserve	Accumulated surplus	Minority interest	Total
	Kshs.	Kshs.	Kshs.	Kshs.	Kshs.	Kshs.
Balance as at 1 July 2017	-	-	-	5,138,461.00	-	5,138,461.00
Surplus(deficit for the period)	-	-	-	(1,718,481.00)	-	(1,718,481.00)
Transfers to/from accumulated surplus	-	-	-	5,138,461.00	-	5,138,461.00
Balance as at 30 June 2018	-	-	-	3,695,692.00	-	3,695,692.00
Balance as 1st July 2018	-	-	-		-	
Deficit for the period	-	-	-	(1,718,481.00)	-	(1,718,481.00)
Transfers to/from accumulated surplus	-	-	-	3,695,692.00	-	3,695,692.00
Balance as at 30 June 2019	-	-	-	1,971,124.00	-	2,031,996.00

(This balance is composed of accumulated surplus for the period indicated)

16. Financial Risk Management

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

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

(i) Credit risk

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

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

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

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

The entity has significant concentration of credit risk on amounts due from xxxx

NOTES TO THE FINANCIAL STATEMENTS (Continued)

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

(ii) Liquidity risk management

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

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

(iii) Market risk

The board has put in place an internal audit function to assist it in assessing the risk faced by the entity on an ongoing basis, evaluate and test the design and effectiveness of its internal accounting and operational controls.

Market risk is the risk arising from changes in market prices, such as interest rate, equity prices and foreign exchange rates which will affect the entity's income or the value of its holding of financial instruments. The objective of market risk management is to manage and control market risk exposures within acceptable parameters, while optimising the return. Overall responsibility for managing market risk rests with the Audit and Risk Management Committee.

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

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

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

	2018 - 2019		2017-2018
	Kshs		Kshs
Revaluation reserve	-	-	-
Retained earnings	1,977,213.00	-	3,985,692.00
Capital reserve		-	-
		-	-
Total funds	1,977,213.00	-	3,985,692.00
		-	-
		-	-
Total borrowings		-	-
Less: cash and bank balances	6,087.00	-	1,123,136.00
Net debt/(excess cash and cash equivalents)	6,087.00	-	1,123,136.00
Gearing	1,971,126.00	-	2,572,556.00

17. CASH GENERATED FROM OPERATION

	2018-2019	2017-2018
		417,520.00
Deficit for the period	(938,992.00)	(1,442,769.00)
Adjusted for – depreciation	840,443.00	782,940.00
Provision for audit fee		290,000.00
Working capital	-	-
Decrease in receivables	-	-
Net cash flow from operation activities	(98,549.00)	47,691.00

18. EVENTS AFTER THE REPORTING PERIOD

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

19. ULTIMATE AND HOLDING ENTITY

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

20. CURRENCY

The financial statements are presented in Kenya Shillings (Kshs).

Appendix I: PROGRESS ON FOLLOW UP OF AUDITOR RECOMMENDATIONS

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

Reference No. on the external audit Report	Issue/observations from Auditor	Management comments	Focal point person to resolve the issue (Name and designation)	Status: (Resolved/Not Resolved)	Timeframe: (put a date when you expect the issue to be resolved.)
Audit Report 2017/2018	Lack of Draft IT Strategic Plan	done	Admin	Done	Nil
Audit Report 2017/2018	Lack of Staff	Engage NEMA to recruit	Committee & NEMA	On-going	One year
Audit Report 2017/2018	Head of Administration	Engaged PS to regularize	Committee & PS	On-going	One year
Audit Report 2017/2018	Lack Chairman	On-going	CS	On-going	One year


 Dr. John Chumo
 For: Chairman

Date 07/04/2020.....

Appendix II: INTER-ENTITY TRANSFERS

ENTITY NAME: NATIONAL ENVIRONMENT COMPLAINTS COMMITTEE			
Break down of Transfers from the MINISTRY OF ENVIRONMENT & FORESTRY			
FY 2018/2019			
A	Recurrent Grants		
	RECEIPTS	Bank Statement Date	Amount (KShs)
		3/9/2018	14,550,000.00
		9/10/2018	9,200,000.00
		5/11/2018	14,566,667.00
		6/11/2018	7,283,333.00
		18/01/2019	23,750,000.00
		11/4/2019	19,323,800.00
		13/06-/019	4,426,200.00
		Total	93,100,000.00
b.	Development Grants	-	-
		-	-
	Direct Payments		
		Total	-
d.	Donor Receipts	-	-
		-	-
		Total	93,100,000.00

The above amounts have been communicated to and reconciled with the parent Ministry Finance Manager ME&F

Sign -----

Sign 