

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – FIFTH SESSION – 2017

DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

REPORT ON THE PETITION BY RESIDENTS OF YATTA CONSTITUENCY  
REGARDING THE POLLUTION IN RIVER ATHI PRESENTED BY HON. FRANCIS  
MWANGANGI, M.P.

DIRECTORATE OF COMMITTEE SERVICES,  
CLERK'S CHAMBERS  
PARLIAMENT BUILDINGS  
NAIROBI

MARCH, 2017

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## **ACRONYMS / ABBREVIATIONS**

EIA	-	Environmental Impact Assessment
EMCA, 1999	-	Environmental Management and Coordination Act, 1999
NEMA	-	National Environment Management Authority
WRMA	-	Water Resources Management Authority
WRUAs	-	Water Resources Users Associations

## **CHAIRPERSON'S FOREWORD**

The petition was tabled before the House by Hon. Francis Mwangangi, MP on behalf of the petitioners. This is in accordance with the provisions of Standing Order No. 225 (2) (a). The petition requests the National Assembly through the departmental Committee on Environment and natural resources intervenes to prevent further discharge of effluent from the industries and have the river cleaned up and ensures that those responsible for the pollution are held accountable.

In considering the petition, the Committee held meetings with the Hon. Francis Mwangangi, MP, who appeared on behalf of the petitioners, and the Cabinet Secretary, Ministry of Environment and Natural Resources. The meetings were aimed at inquiring into the issues raised in the petition.

The Committee established that there was major pollution in river Athi putting the communities living around the river at risk from diseases. The problem needs an urgent intervention by relevant government agencies. The Committee recommends that the Ministry of Environment and Natural Resources, through the National Environment and Management Authority, should urgently identify and compel all industries along the River Athi and on the upstream to stop the dumping of affluent and other waste in to the river.

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

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

**Hon. Amina Abdalla, CBS, MP**

## **EXECUTIVE SUMMARY**

This report has considered and responded to the prayers sought by residents of Yatta Constituency in a petition regarding pollution in River Athi. The Committee established that the prayers pursued by the petitioners were reasonable given that there is evidence of pollution in river Athi water. The report entails presentations by the Petitioners, Hon. Francis Mwangangi, M.P and Cabinet Secretary for the Ministry of Environment and Natural Resources. The Committee also carried out a field visit to River Athi and also held a public hearing forum where it received evidence from the residents.

The Committee established that there was major pollution in river Athi putting the communities living around the river at risk from diseases. The problem needs an urgent intervention by relevant government agencies. The Committee also established that the Ministry of Environment and Natural Resources Developed and initiated implementation of Athi-Sabaki River pollution & control strategy in 2015. The strategy is being implemented in seven (7) Counties that are within the river catchment; that is Nairobi, Kiambu, Machakos, Kitui, Makueni, TaitaTaveta and Kilifi. From the Committee's investigations, the strategy is yet to yield any results.

The Committee recommends that the Ministry of Environment and Natural Resources, through the National Environment and Management Authority, should urgently identify and compel all industries along the River Athi and on the upstream to stop the dumping of effluent and other waste in to the river. The culprits should be compelled to clean up the river as provided for in the Environmental Management and Coordination Act, 1999. Further, the operating licences for the industries found responsible for the pollution should be withdrawn until they meet the required standards of operations. Further, companies that continue polluting should be prosecuted.

## **MANDATE OF THE COMMITTEE**

The Departmental Committee on Environment and Natural Resources is established under the National Assembly Standing Orders No. 216(1). The functions and mandate of the Committee are also contained under the National Assembly Standing Orders, No. 216(5) as:-

- a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
- b) Study the program and policy objectives of the Ministries and departments and the effectiveness of the implementation;
- c) Study and review all legislation referred to it;
- d) Study, access and analyze the relative success of the Ministries and Departments as measured by the results obtained as compared with its stated objectives;
- e) Investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
- f) Vet and report on all appointments where the constitution or any law requires the National Assembly to approve, except those under Standing Order 204; and
- g) Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

The subject matter of the Departmental Committee on Environment and Natural Resources are stated in the Second Schedule of the National Assembly Standing Orders No. 216 (f) as follows: climate change, environment management and conservation, forestry, water resource management, wildlife, mining and natural resources, pollution and waste management.

## **OVERSIGHT**

In executing its mandate, the Committee oversees the following Government Ministries and Departments namely:-

- i. The State department for Water Services;
- ii. The State Department of Environment;
- iii. The State Department for Natural Resources; and
- iv. The Ministry of Mining

## MEMBERS OF THE COMMITTEE

The Committee comprises of the following Members;

1. Hon. Amina Abdalla, CBS, M.P - **Chairperson**
2. Hon. Alexander. K. Kosgey, M.P. - **Vice Chairperson**
3. Hon. Alice Ng'ang'a, M.P.
4. Hon. Ndiritu Samuel Mathenge, M.P.
5. Hon. Richard Makenga, M.P.
6. Hon. Dr. Ejidius Njogu Barua, M.P.
7. Hon. Jude Njomo, M.P.
8. Hon. Moitalel Ole Kenta, M.P.
9. Hon. KathuriMurungi, M.P.
10. Hon. Sunjeev Kaur Birdi, M.P.
11. Hon. Rop Jackson Kipkorir, M.P.
12. Hon. Abdinoor Mohamed Ali, M.P.
13. Hon. Emanikor Joyce Akai, M.P.
14. Hon. Farah Abdulaziz Ali, M.P.
15. Hon. Tonui,Ronald Kiprotich,M.P.
16. Hon. (Dr.) Wanyonyi Reginalda N, M.P.
17. Hon. Irea Gideon Mwiti, M.P.
18. Hon. Dukicha Hassan Abdi, M.P.
19. Hon. Ganya Francis Chachu, M.P.
20. Hon. Wandayi James Opiyo, M.P
21. Hon. Geni Charles Mongare, M.P.
22. Hon. (Dr.) Ottichilo Wilber Khasilwa, M.P.
23. Hon. Joyce Lay, M.P.
24. Hon. Ogalo George Oner, M.P.
25. Hon. (Major) Muluvi Marcus Mutua, M.P.
26. Hon. Mohamed Diriye Abdullahi, M.P.
27. Hon. Peter Kinyua, MP.
28. Hon. Shukran Hussein Gure, M.P
29. Hon. Zuleikha Hassan Juma, M.P



## COMMITTEE SECRETARIAT

<b>Second Clerk Assistant</b>	Ms. Tracy Chebet Koskei
<b>Third Clerk Assistant</b>	Mr. Hassan A. Arale
<b>Legal Counsel II</b>	Mr. Ronald Walala
<b>Senior Research Officer</b>	Mr. Ahmed Hassan Odhowa
<b>Fiscal Analyst III</b>	Ms. Amran Yunis

## LIST OF RECOMMENDATIONS

1. The Ministry of Environment and Natural Resources through the National Environment and Management Authority should urgently identify and compel all industries along the river Athi and on the upstream to stop the dumping of effluent and other waste in to the river. The culprits should be compelled to clean up the river as provided for in the Environmental Management and Coordination Act, 1999;
2. The operating licences for the industries found responsible for the pollution should be withdrawn until they meet the required standards of operations. Further, companies that continue polluting should be prosecuted;
3. The Ministry of Environment and Natural Resources should come up with a long-term strategy to restore and rehabilitate River Athi in order to ensure the source of water for the proposed Kshs. 50 billion Thwake Dam Project is of good quality. The strategy should be cross-county since there are many counties within the river's catchment area; and,
4. The National Environment Management Authority (NEMA) has structural problems as it depends on lead agencies and there is therefore need to amend the Environmental Management and Coordination Act, 1999 in order to give NEMA more muscle to punish agencies that do not comply with environment laws.

## **1.0 Introduction**

The Hon. Francis Mwangangi, M.P, the Member for Yatta Constituency presented the petition on behalf of the residents of Yatta Constituency on the pollution of River Athi and drew the attention of the House as to the following:

1. Article 42 of the constitution accords every person the right to a clean and healthy environment;
2. River Athi is an important source of water for residents of Kajiado, Nairobi, Machakos, Kitui and Makueni Counties;
3. The residents of these Counties utilize the river water not only for domestic use but also for irrigation;
4. Industries and other entities surrounding the river have been discharging effluent to the river thus polluting and rendering it a health hazard;
5. The continued discharge of effluent to the river poses a threat to the health of the residents in the surrounding areas;

Therefore the Petitioners prayed that, the National Assembly, through the Departmental Committee on Environment and Natural Resources:

- I. Intervenes to prevent further discharge of affluent from industries and have the River cleaned up; and
- II. Ensure that those responsible for the pollution are held accountable.

## **2.0 Evidence**

Having been seized of the Petition, the Committee commenced its consideration by meeting the member who presented the petition, the Petitioners and interested Members of the public on various dates. During the meetings, written and oral evidence was adduced as recorded hereunder:-

### **2.1 Submission by Hon. Francis Mwangangi, M.P**

The Honourable Member for Yatta Constituency appearing before the Committee informed the Members that River Athi contributes three quarters of the water supply of (Ukambani) Eastern region. Further, the Kshs. 50 billion Thwake Dam which is under construction is intended to draw its water from this river therefore the need to protect it from pollution. The pollution to River Athi was from waste from households, hospitals, industries and road contractors working in the area.

The Honourable Member further informed the committee that some observable characteristics of the possible pollution included: The water has turned green in appearance, large foam on the water in some parts that can be observed from far and also there are reported cases of cholera outbreak by the residents using the water for domestic purposes. He urged the committee to recommend measures to prevent the upstream from polluting the river for the benefit of the downstream users of the river water.

## **2.2 Submission by the Principal Secretary for the State Department for Environment, Ministry of Environment and Natural Resources**

The Principal Secretary for the State Department for Environment Mr. Charles Sunkuli, CBS appeared before the Committee to respond to issues regarding the petition. Mr. Sunkuli submitted the following, that:

1. Most of the industries/companies and individuals within the Athi river catchment are connected to the sewer line, hence regulated by the Nairobi and Mavoko Water and Sewerage companies. As the lead agencies in that particular aspect of environmental management, the two companies are in a position to provide a list of all the companies connected to their sewer lines. However, for those not connected to the sewer line, NEMA regulates them through Effluent Discharge License (EDL).
2. NEMA has held several meetings with the water and sewerage companies and instituted various enforcement actions including taking the Nairobi Water and Sewerage Company to court for pollution of Nairobi River. These led to the fixing of major sewer bursts which were discharging into the river at the globe cinema round about, the collapsed Ruai sewer trunk line; major sewer expansion at Zimmerman and Kasarani area; expansion and dislodging of Kenanie treatment works. However, even with these improvements NEMA has continued to receive complaints on sewer overflows which is an indication that the sewer line capacity cannot handle the amount of sewer, hence leading to frequent sewer bursts and overflows.
3. NEMA was established in December, 2003 and the Environmental (Impact assessment and Audit) Regulations, 2003 came into force in 2004. Projects which existed before 2004, including factories along Athi River were required to submit Initial Environmental Audit Reports by the end of the year 2005. Projects that were proposed after coming into force of the Environmental Impact Assessment/Audit Regulations, 2003, were required to conduct Environmental Impact Assessment (EIA) for licensing by NEMA prior to commencement of the proposed developments.

4. It was therefore NEMA's position that the facilities along Athi River submitted Initial Environmental Audit Reports and EIA reports for review and approval. To ensure continuous monitoring, these regulated facilities have also been submitting Annual Environmental Audit Reports, obtaining effluent discharge licenses and obtaining waste management licenses.
5. NEMA has periodically been conducting on-site inspections to ensure compliance with the set standards. The Principal Secretary confirmed that NEMA acts swiftly to any reported cases of environmental pollution to ensure that the integrity of the environment is maintained.
6. In order to protect and conserve River Athi, the Ministry has undertaken the following through NEMA:
  - a) Developed and initiated implementation of Athi-Sabaki River pollution & control strategy in 2015. The strategy is being implemented in seven (7) Counties that are within the river catchment; that is Nairobi, Kiambu, Machakos, Kitui, Makeni, Taita Taveta and Kilifi. The implementation of this strategy is spearheaded by NEMA County Directors of Environment in their respective Counties working with the relevant stakeholders such as WRMA and the County Governments among others. The implementation of the strategy started in 2014/2015 Financial year and is ongoing.
  - b) Inventory and mapping of illegal effluent discharges into the Athi-Sabaki Rivers of which NEMA has identified and mapped 98 illegal discharge points into Nairobi River. The discharges are from sewer lines, residential houses, dump sites, garages, car wash areas and informal settlements. It was noted that 57 out of 98 illegal discharge points were from sewerage. NEMA issued improvement notices to the point source pollutants and corrective measures were put in place to stop the discharges such as those from the University of Nairobi at the Chiromo round-about and, the Nairobi Water and Sewerage Company among others. This is an ongoing process and will continue in the current financial year.
  - c) Implementation of a Cleaner Production Program, which is a major intervention being undertaken by NEMA in partnership with the Kenya National Cleaner Production (KNCP) to assist companies to comply with environmental legislation. Under the programme many industries have put in place interventions to stop illegal discharges and emissions to the Environment. The intervention is being implemented in three regions of the Lake Victoria Basin, Nairobi Region and Coast Region.

The Nairobi region program started in April 2014 and the first phase has accomplished the following:

- (i) GIS mapping of 28 industries that have a direct or indirect pollution impact on the Nairobi River Basin.
  - (ii) Sampled waste water from the 28 mapped industries before and after treatment for analysis on the levels of pollution.
  - (iii) Training workshop for representatives from the 28 mapped industries in preparation for the in-plant assessment.
  - (iv) In-plant assessments for nine (9) industries have been done and measures for efficiency and source reduction of waste put in place. NEMA intervened to have Kenanie water treatment plant (EPZ) in Machakos County undergo dislodging and is currently being upgraded to manage the increased effluent volumes.
  - (v) Industries in the upper catchment area of Nairobi, Kiambu and Machakos are subjected to close monitoring through the compliance assistance programme. Further, other industries under the program have reduced discharges and emissions to the environment at different scales.
- d) The Ministry through NEMA in collaboration with the World Student Community for Sustainable Development Kenya (WSCSD – Kenya) and support from various stakeholders, have partnered to implement the ‘Adopt-a-River Initiative’. This entails students from universities, colleges, secondary school, and community youth groups in the upper catchment of Nairobi River monitoring the health of rivers. The project’s overall objective is to strengthen the link between teaching and sustainability challenges in the real world.

Specifically, the project aims to achieve the following:-

- (i) Strengthen monitoring of the River Basin streams by local stakeholders,
- (ii) Steer restoration of polluted streams within the River Basin to make them more clean and healthy, and
- (iii) Create awareness among the young on the effects of human activities on the water bodies for sustainable development.

7. To compliment the work being done by NEMA on river Athi, the Water Resources Management Authority (WRMA) has undertaken a number of interventions including the following:-

- (i) Implementation of Effluent Discharge Control Plans (ECDPs). There are currently two court cases against the Export Processing Zone; and the Agrochemical and Food Company for pollution of the Athi and Nyando Rivers respectively. In 2014/15, the improvement in compliance rate to the ECDPs was 11.6% against a target of

12%. The target for 2015/16 was to improve the compliance rate by a further 20%.

- (ii) Pollution surveys: WRMA has cumulatively carried out 31 pollution surveys to date.
- (iii) River clean-ups in which the target is to undertake at least one clean-up per region per year and encourage other stakeholders such as the WRUAs to sustain the clean ups. To date, clean ups have been undertaken in some rivers which include Kiu (Kiambu), Gatharaine (Kiambu), Machinjoni (Trans-Nzoia), Kikat (Kisumu), Migori, Athi River at fourteen falls (Kiambu and Machakos), Lwatingu (Kakamega), and Iwakhakha (Bungoma).
- (iv) The Athi River Restoration Programme was initiated in 2015. Planned sub-programmes will be implemented as soon as budgets are secured
- (v) Water Quality Monitoring and assessments in which a total of 264 surface water and 149 ground water monitoring stations have been established countrywide to monitor trends in water quality and impacts of management measures taken.
- (vi) Improvements of the sewerage infrastructure in the city are being undertaken by the Nairobi City Water and Sewerage Company with support from AfD. Earmarked interventions include expanding trunk lines, reticulations and rehabilitating the Kariobangi and Ruai treatment plants. In addition, the Water Services Trust Fund is already providing water and sanitation services in informal settlements.

8. Other measures put in place include the following:-

- NEMA has established specific contacts at the Nairobi City County and the Nairobi City Water and Sewerage Company where the Authority refers illegal dumpsites and discharges respectively for quick attention.
- Create public awareness on the necessity of embracing a paradigm shift in the way we carry out development for the benefit of all, including the environment.
- Established a river restoration committee at the national level. This committee comprises Institutions whose mandates touch on river conservation. The Ministry intends to establish similar committees at the County level. The National committee will guide the policies on the conservation of rivers whereas the committees at the County will implement conservation programs at the County level.
- The Ministry has already appointed County Directors of Environment (NEMA) for all the 47 Counties. Part of their work is to ensure that the programmes being undertaken at the County level are complementary to those being undertaken at the National level.
- The 47 Counties are in the process of forming the County Environment Committee (CEC) as per EMCA in collaboration with NEMA. The CEC is responsible for the proper management of the environment within the County for which it is appointed and

development of County Strategic Environmental Action plan every five years. Marsabit, Kajiado and Embu Counties have already gazzetted their County Environment Committees. Other Counties are at various stages of forming their committees.

9. NEMA faces various challenges in executing its mandate. They include the following:-
- (i) Inadequate financial resources to enable it undertake sensitization and enforcement of environmental laws.
  - (ii) Inadequate human resources for enforcement of environmental laws. In compliance with the Constitution of Kenya, 2010, NEMA has established 47 County offices. However, most of the Counties have two or three officers who are not able to attend to all the environmental issues within the vast Counties.
  - (iii) Lack of political good will in compliance to environmental laws.
  - (iv) Lack of comprehensive spatial planning including inadequate infrastructure which is further complicated by piecemeal change of users.
  - (v) Widespread informal settlements which are a major source of pollution to water bodies. In some of them, sewer lines have been punctured for agricultural use leading to overflow of sewage to the environment.

### **2.3 Field Visit to Athi River**

The Committee carried out a field visit to Athi River on 18<sup>th</sup> November 2016 and received the following submissions:

#### **A. KITHIANI-KABAA ATHI BRIDGE**

##### **1. Mr. Obedi Musau- Retired Police Officer and Area Resident**

Mr. Obedi informed the Committee that the water from the river was causing crops to dry up and therefore farmers could not use it for irrigation. The pollution of this river is well known by the Public Health Officers, Members of Parliament yet no action had been taken to correct the situation though the residents expect change now that the Committee on Environment and Natural Resources of the National Assembly has taken up the matter. The residents are hopeful there will be a solution but meanwhile they need boreholes dug for the communities living along the river for their domestic use.

##### **2. Mr. Robert Orina-National Environment Management Authority Officer**

Mr. Orina submitted to the members that, the problem of pollution starts from the upstream Counties like Nairobi County since there are informal settlements next to rivers, industries sewer lines burst from time to time and digging of toilets near the rivers. All the above happens with the political support of the members of the County Assembly who facilitate the resistance of those living along the river banks. The Government should implement the river Athi-Sabaki strategy.

**3. Mr. Eric Akotsi–Director for Environment, Ministry of Environment and Natural Resources**

Mr. Akotsi suggested the cleaning of river Athi to start from the urban centers since they are number one polluters of the river.

**4. Hon. Vincent Musyoka, M.P**

The Honorable Member submitted that farmers in Kabaa have a lot of problems hence affecting the farming practices which resulted to hunger and therefore urged the Committee to provide both short and long term solutions.

The industries are polluting the river through dumping of their waste in the river and therefore the Committee should recommend heavy fines for any culprits found and they be compelled to clean the polluted river.

**5. Mr. Patrick Luka-Farmer In Kibwezi**

He informed the committee that, crops dry up after using the river water for irrigation and requested the committee to use all the necessary legislative powers to stop the dumping of waste in the river.

**6. Ms. Benina Mweu: Community Health Worker**

Ms. Mweu submitted that after consumption of the water children fall sick and upon testing at health centers and hospitals their laboratory results indicate the presence of Typhoid and Amoeba. The children from the area also suffer from skin diseases. The residents also reported fish in the river dying.

**7. Pastor Muthoka**

The communities around the river work very hard to clean and conserve it in order to add value to the resources along the river and therefore the authorities concerned should stop the sewerage and other waste from being dumped. A clean river is good for the safety of the people as well as the wildlife depending on the river water.



## **B. Public Hearing Forum at Katangi**

A public hearing forum was held at the Assistant County Commissioner's Office in Katangi. The Committee received submissions from the following:

### **1. Mr. James Mwangangi**

Mr. Mwangangi stated that the river serves many Counties and the medical waste which was removed from the river and showed to the members by the resident's was evidence enough of the ongoing waste dumping. Further, Thwake Dam which draws its water from this river is part of the vision 2030 of the development agenda of the Country which is unlikely to be realized if the pollution of the river continues.

### **2. Mr. Mbithi Mule**

He also reiterated that due to the contamination of river water caused by the waste disposal crops are dying up with usage of the river water for crop irrigation.

### **3. Pastor Benjamin Kikui**

He said that for the last 20 years he had been using this river for domestic purposes and it is painful to see even the fish that lives in the river are dying. He submitted that it is hard for the residents to drink its water however they have no options as they cannot afford bottled.

### **4. Mr. KalunduMwindi**

He assured the Members that, the pollution they had seen at the river was also happening in Yatta and other parts like Mwala and therefore urged the members to intervene and assist the community.

### **5. Ms. Florence Nguma**

Ms. Nguma thanked the Hon. Mwangangi for taking the petition to the National Assembly on their behalf and confirmed that the water turns green with the most affected being the women since even their new born can be bathed with this water. Currently the boreholes are their source of water but the river is the only reliable source hence the need to clean the pollution as a permanent solution.

The month of August is the worst due to the drought and the river is the only source of water for animals. However animals usually die after drinking the water.

#### **6. Ms. Betty Wambua**

Ms. Wambua informed the meeting that the communities living around the river need more earth dams and bore holes to adequately meet the water needs of the community. She submitted the situation was really bad for mothers with very young children as they were forced to use the polluted from the river which is harmful.

Further, she informed the meeting that even hospitals do not have other sources of water and patients were often asked to buy water for their own use while in hospitals.

#### **7. Ms. Charity Chepkonga- Director of Administration at the Ministry of Environment And Natural Resources**

Ms. Chepkonga informed the meeting that the National Environment Management Authority had launched a Rapid Results initiative for solid waste Management. The 100 day initiative will strive to achieve the following outcomes:

- (i) Enhance public awareness;
- (ii) Undertake joint surveillance/ inspections with relevant regulators, Lead agencies and stakeholders who include Counties, among others;
- (iii) Increase waste Management receptacles in public places;
- (iv) Enhance compliance promotion;
- (v) Enforce laws on compliance in waste management;
- (vi) Recognize best practices in waste management;
- (vii) Engage stakeholders on the implementation of the National solid waste Management Strategy.

Ms. Chepkonga further submitted that the Ministry of Environment and Natural Resources was aware of the problem of pollution in River Athi and was working on a major clean- up programme for the river.

### **3.0 Findings**

The Committee established the following in its investigation;

1. The Athi River is a source of livelihood to the communities living around it, however relevant government agencies/ authorities are not protecting the river;
2. There was major pollution in river Athi putting the communities living around the river at risk from diseases. The problem needs an urgent intervention from the government;
3. River Athi is the source of water for the Kshs. 50 billion Thwake Dam project;
4. The Ministry of Environment and Natural Resources Developed and initiated implementation of Athi-Sabaki River pollution & control strategy in 2015. The strategy is being implemented in seven (7) Counties that are within the river catchment; that is Nairobi, Kiambu, Machakos, Kitui, Makueni, TaitaTaveta and Kilifi. From the Committee's investigations, the strategy is yet to yield any results;
5. The National Environment Management Authority is the agency mandated with Environment protection, despite the launch of the Rapid Results Initiative on solid waste Management its impact is yet to be felt; and,
6. The Submission made by the Principal Secretary was inaccurate, incoherent and was scapegoating on the effectiveness of NEMA.

#### 4.0 Recommendations

The Committee makes the following recommendations:

1. The Ministry of Environment and Natural Resources through the National Environment and Management Authority should urgently identify and compel all industries along the river Athi and on the upstream to stop the dumping of effluent and other waste in to the river. The culprits should be compelled to clean up the river as provided for in the Environmental Management and Coordination Act, 1999;
2. The operating licences for the industries found responsible for the pollution should be withdrawn until they meet the required standards of operations. Further, companies that continue polluting should be prosecuted;
3. The Ministry of Environment and Natural Resources should come up with a long-term strategy to restore and rehabilitate River Athi in order to ensure the source of water for the proposed Kshs. 50 billion Thwake Dam Project is of good quality. The strategy should be cross-county since there are many counties within the river's catchment area; and,
4. The National Environment Management Authority (NEMA) has structural problems as it depends on lead agencies and there is therefore need to amend the Environmental Management and Coordination Act, 1999 in order to give NEMA more muscle to punish agencies that do not comply with environment laws.

Signed..........Date..........

**Hon. Amina Abdalla, CBS, MP**  
**Chairperson, Departmental Committee on Environment and Natural Resources**

ANNEXES

A. ADOPTION LIST



DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

ADOPTION LIST OF THE REPORT ON THE PETITION BY HON. FRANCIS MWANGANGI, M.P ON BEHALF OF RESIDENTS OF YATTA CONSTITUENCY REGARDING POLLUTION OF RIVER ARTHI

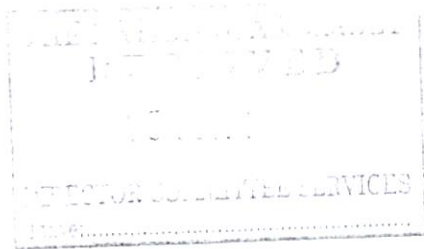
	NAME	SIGNATURE
1	Hon. Abdalla, Amina,CBS, MP-CHAIRPERSON	
2	Hon. Alexander Kosgey, MP <b>Vice Chairperson</b>	
3	Hon. Dukicha, Hassan Abdi,MP	
4	Hon. Emanikor, Joyce Akai, MP	
5	Hon.Ganya, Francis Chachu, MP	
6	Hon. Geni, Charles Mongare,MP	
7	Hon. Gure, Shukran Hussein, MP	
8	Hon. Ole Kenta, Richard Moitalel, MP	
9	Hon. Mohamed, Diriye Abdullahi, MP	
10	Hon. Murungi, Kathuri, MP	
11	Hon. Ogalo, George Oner, MP	
12	Hon. Sunjeev Kour Birdi, MP	
13	Hon. Tonui, Ronald Kiprotich, MP	
14	Hon. Dr. Wanyonyi, Reginalda N, MP	
15	Hon. Farah, Abdulaziz Ali, MP	
16	Hon. Barua, Ejidius Njogu, MP	
17	Hon. Irea, Gideon Mwiti, MP	
18	Hon. Muluvi, Marcus Mutua, MP	
19	Hon. Opiyo wandayi, MP	
20	Hon. Ndiritu, Samuel Mathenge, MP	

21	Hon. Ottichilo, Wilber Khasilwa, MP	
22	Hon. Rop, Jackson Kipkorir, MP	
23	Hon. Abdinoor, Mohammed Ali, MP	
24	Hon. Ng'ang'a, Alice Wambui, MP	
25	Hon. Peter Kinyua, MP	
26	Hon. Richard Makenga, MP	
27	Hon. Zuleikha Hassan Juma, MP	
28	Hon. Jude Njomo, MP	
29	Hon. Joyce Lay, M.P	

**CHEBET KOSKEI**  
**FOR -CLERK OF THE NATIONAL ASSEMBLY**

ANNEXES B. PETITION





## Directorate of Legislative and Procedural Services

### MEMO

TO : DIRECTOR, COMMITTEE SERVICES

FROM : SENIOR CLERK ASSISTANT

DATE : 15<sup>TH</sup> JUNE, 2016

SUBJECT : PUBLIC PETITION

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The above-mentioned subject matter refers.

On **Wednesday, 15<sup>th</sup> June, 2016**, the Member for Yatta Constituency, Hon. Francis Mwangangi, MP on behalf of the residents of Yatta Constituency presented a Petition regarding pollution in River Athi.

Enclosed herewith, please find the Petition for your action.

*Rachel Kairu*

Rachel Kairu

Copy to: Clerk of the National Assembly

Director, Legislative and Procedural Services

Chair, Departmental Committee on Environment and Natural Resources

Encl.

*CHERRET*  


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*pls deal*  
*FA*  
*15/6*

REPUBLIC OF KENYA

*Miss Gata*  
*Moses* *anna*  
*P. J. G. S*  
*14/6/16*

*Approved BWT*  
*SNA*  
*14/6/16*



THE NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT  
(FOURTH SESSION)

**PUBLIC PETITION**

**BY RESIDENTS OF YATTA CONSTITUENCY REGARDING POLLUTION  
IN RIVER ATHI**

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I, the undersigned, on behalf of the residents of Yatta Constituency,

**DRAW** the attention of the House to the following:-

- I. **THAT**, Article 42 of the Constitution accords every person the right to a clean and healthy environment;
- II. **THAT**, River Athi is an important source of water for residents of Kajiado, Nairobi, Machakos, Kitui and Makueni Counties;
- III. **THAT**, the residents of these counties utilize the river water not only for domestic use but also for irrigation;
- IV. **THAT**, industries and other entities surrounding the river have been discharging effluent to the River thus polluting and rendering it a health hazard;
- V. **THAT**, the continued discharge of effluent to the river poses a threat to the health of the residents in the surrounding areas;

**BY RESIDENTS OF YATTA CONSTITUENCY REGARDING  
POLLUTION IN ATHI RIVER**

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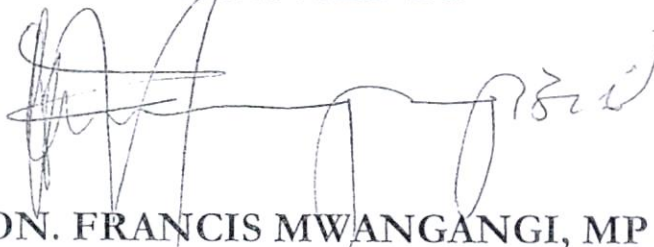
VI. **THAT**, the issues in respect of which this Petition is made are not pending before any Court of Law, Constitutional or statutory body.

**THEREFORE** your humble petitioners pray that the National Assembly, through the Departmental Committee on Environment and Natural Resources:

- (i) Intervenes to prevent further discharge of effluent from industries and have the River cleaned up; and
- (ii) Ensures that those responsible for the pollution are held accountable.

And your **PETITIONERS** will ever pray.

**PRESENTED BY**


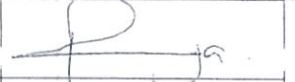
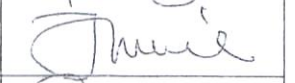
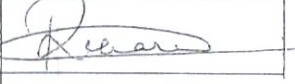


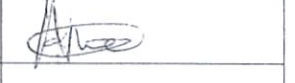
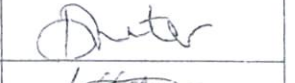




**HON. FRANCIS MWANGANGI, MP  
MEMBER FOR YATTA CONSTITUENCY**

**DATE:** 27-05-2016.....

# PUBLIC PETITION

BY AREA RESIDENTS REGARDING THE POLLUTION OF ATHI RIVER

NO	NAME OF PETITIONER	FULL ADDRESS	NATIONAL ID/ PASSPORT NO.	SIGNATURE/ THUMB EXPRESSION
1.	AMBROSE M. MURANZIA	P.O. Box 45005- 00100 NAIROBI	21735396	
2.	PHILIP N. MUNYASYA	# 99 KATANGI	4508602	
3.	JOSEPH W. MUIA	# 99 KATANGI	9290080	
4.	RICHARD M. KITHI	# 3452 - 00200 NAIROBI	6883726	
5.	SHADRACK N. MBITHI	P.O. Box 6223 00200 NRB	27396952	
6.	NICHOLAS MOLI	19 MAINYA - ITHI	13640693	
7.	ANNE VAATI	# 15 KATANGI	24450254	
8.	PETER MUTUKU NZWII	# 72 KATANGI	7387760	
9.	LUCIA MUKU KILONZO	P.O. BOX 3443 - 00200 NAIROBI	22310213	
10.	BENSON MUEMA MUEMBO	PO BOX 49506-00100	21858594	
11.				

ANNEXES C- MINUTES OF THE COMMITTEE

**MINUTES OF THE 9<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES, HELD ON FRIDAY 17<sup>TH</sup> FEBRUARY, 2017 AT 10.00 AM IN IMPERIAL HOTEL, KISUMU CITY**

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**PRESENT**

1. Hon. Abdalla Amina, M.P. – **Chairperson**
2. Hon. Tonui Ronald Kiprotich, M.P
3. Hon. Dr. Wanyonyi Reginalda N. M.P.
4. Hon. Dr. Ottichillo K. Wilber, M.P.
5. Hon. Richard Makenga, M.P
6. Hon. Jude Njomo, M.P.
7. Hon. Wandayi James Opiyo, M.P.
8. Hon. Geni Charles Mong'are, M.P.
9. Hon. Rop Jackson Kipkorir, M.P.
10. Hon. Sunjeev Kaur Birdi, M.P.
11. Hon. Abdinoor Mohammed Ali, M.P.
12. Hon. Ndiritu Samuel Mathenge, M.P.
13. Hon. Peter Kinyua, M.P.
14. Hon. Ogalo George Oner, M.P.
15. Hon. Farah, Abdulaziz Ali, M.P.
16. Hon. Ole Kenta Richard Moitalel, M.P.

**APOLOGIES**

1. Hon. Alexander Kosgey, M.P. – **Vice Chairperson**
2. Hon. Ganya Francis Chachu, M.P.
3. Hon. Kathuri Murungi, M.P.
4. Hon. Muluvi Marcus Mutua, M.P
5. Hon. Dr. Barua Ejidius Njogu, M.P.
6. Hon. Ng'ang'a Alice Wambui, M.P.
7. Hon. Dukicha Hassan Abdi, M.P.
8. Hon. Irea Gideon Mwiti, M.P.
9. Hon. Joyce Lay, M.P
10. Hon. Gure Shukran Hussein, M.P.
11. Hon. Mohamed Diriye Abdullahi, M.P
12. Hon. Emanikor Joyce, M.P.
13. Hon. Zulekha Hassan, M.P

**IN-ATTENDANCE - SECRETARIAT**

1. Ms. Florence Abonyo - Director Committee Services, National Assembly
2. Ms. Tracy Chebet Koskei - Clerk Assistant II
3. Mr. Hassan A. Arale - Clerk Assistant III

- |                       |                                  |
|-----------------------|----------------------------------|
| 4. Mr. James Muguna   | - Research Officer III           |
| 5. Mr. Lilian Amuga   | - Public Communication Assistant |
| 6. Mr. Nickson Mutai  | - Audio Officer                  |
| 7. Mr. Mohamamed Said | - Serjeant at Arms               |

**MIN.NO. DC/ENR/031/2017: PRELIMINARIES**

The meeting was called to order at 10.00 am after which prayers were said. The Chair then welcomed the members to the meeting.

**MIN.NO. DC/ENR/032/2017: CONSIDERATION OF THE REPORT ON THE PROPOSED DEGAZETEMENT OF 1, 577.36 HECTARES OF TURBO FOREST RESERVE COMPRISING OF MAUTUMA SETTLEMENT SCHEME IN LUGARI DISTRICT, KAKAMEGA COUNTY:**

The Members considered and adopted the report after it was proposed and seconded by Hon. Dr. Reginalda Wanyonyi, M.P and Hon. Richard Makenga, M.P respectively.

**MIN.NO. DC/ENR/033/2017: CONSIDERATION OF THE REPORT ON THE PETITION BY HON. ANDREW MWADIME M.P ON BEHALF OF RESIDENTS OF MWATATE CONSTITUENCY REGARDING HUMAN WILDLIFE SETTLEMENT AND ILLEGAL GRAZING IN TSAVO WEST NATIONAL PARK:**

The Members considered and confirmed the report on the as the true reflection of the Committee's deliberation and findings after it was proposed and seconded by Hon. Dr. Wilber Ottichilo, M.P and Hon. Sunjeev Kaur Birdi, M.P respectively.

**MIN.NO. DC/ENR/034/2017: CONSIDERATION OF THE REPORT ON THE PETITION BY HON. FRANCIS MWANGANGI M.P ON BEHALF OF RESIDENTS OF YATTA CONSTITUENCY REGARDING THE POLLUTION OF RIVER ATHI:**

The Members considered and confirmed the report on the as the true reflection of the Committee's deliberation and findings after it was proposed and seconded by Hon. Richard Makenga, M.P and Hon. Ronald Tonui, M.P respectively.

MIN.NO.DC/ENR/035/2017:

ADJOURNMENT

There being no other business the meeting was adjourned at 12.30pm.

SIGNED.....  
(Chairperson)

DATE.....



**MINUTES OF THE 51<sup>st</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES HELD ON TUESDAY 19<sup>th</sup> JULY, 2016 AT 10.30AM, CPA ROOM, PARLIAMENT BUILDING.**

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**PRESENT**

1. Hon. Abdalla Amina, CBS, M.P. – **Chairperson**
2. Hon. Jude Njomo, M.P. – **Chair of the Session**
3. Hon. Emanikor Joyce, M.P.
4. Hon. Ole Kenta Richard Moitalel, M.P.
5. Hon. Sunjeev Kaur Birdi, M.P.
6. Hon. Dr. Wanyonyi Reginalda N. M.P.
7. Hon. Farah, Abdulaziz Ali, M.P.
8. Hon. Barua EjidiusNjogu, M.P.
9. Hon. Muluvi Marcus Mutua, M.P.
10. Hon. Richard Makenga, M.P
11. Hon. Isaac Mwaura, M.P

**APOLOGIES**

1. Hon. Alexander Kosgey, M.P. – **Vice Chairperson**
2. Hon. Ganya Francis Chachu, M.P.
3. Hon. KathuriMurungi, M.P.
4. Hon. Ndiritu Samuel Mathenge, M.P
5. Hon. Rop Jackson Kipkorir, M.P.
6. Hon. Tonui Ronald Kiprotich, M.P
7. Hon. Irea Gideon Mwiti, M.P.
8. Hon. Geni Charles Mong'are, M.P.
9. Hon. Ogalo George Oner, M.P.
10. Hon. Ottichillo K. Wilber, M.P.
11. Hon. Peter Kinyua, M.P.
12. Hon. Ng'ang'a Alice Wambui, M.P.
13. Hon. GureShukra Hussein, M.P.
14. Hon. Joyce Lay, M.P
15. Hon. Abdinoor Mohammed Ali, M.P.
16. Hon. Dukicha Hassan Abdi, M.P.
17. Hon. Zuleikha Hassan, M.P
18. Hon. Mohamed Diriye Abdullahi, M.P

## IN ATTENDANCE

### THE NATIONAL ASSEMBLY

1. Ms. Tracy Chebet koskei - Clerk Assistant II
2. Mr. Hassan A. Arale - Clerk Assistant III
3. Ms. Fatuma - Audio Officer

### MINISTRY OF ENVIRONMENT AND NATURAL RESOURCES OFFICIALS

1. Mr. Charles Sunkuli -Principal Secretary, State Department for Environment, Ministry of Environment & Natural Resources
2. Prof. Geoffrey Wahungu - Director General, National Environment Management Authority (NEMA)
3. Mr. Zethania Owuor Ouma - NEMA
4. Mr. Jeremiah Mwangi - NEMA
5. Mr. Erick F.N Akotsi -NEMA

### MIN.NO. DC-ENR/176/2016:

### PRELIMINARIES

The meeting was called to order at 10.30 am after which prayers were said. The Chair then welcomed the Members to the meeting. This was followed by introduction by the Members of the Committee followed by the witnesses.

### MIN. NO. DC-ENR/177/2016: MEETING WITH THE PRINCIPAL SECRETARY MINISTRY OF ENVIRONMENT AND NATURAL RESOURCES MR CHARLES SUNKULI REGARDING A PETITION BY HON. FRANCIS MWANGANGI, M.P ON BEHALF OF RESIDENTS OF YATTA CONSTITUENCY ON POLLUTION IN RIVER ATHI

During its sitting of Thursday 30<sup>th</sup> June, 2016, the Committee resolved to invite the Cabinet Secretary for the Ministry of Environment and Natural Resources for a meeting to provide the following information:

1. Provide a list of all industries/companies/individuals discharging effluent in the River Athi and those compliant to effluent treatment standards and procedures?
2. Whether the National Environment Management Authority (NEMA) carried out Environmental Impact Assessment studies before issuing operating licence to all factories around River Athi and whether regular inspection is carried out regularly to safeguard the environment and general health of the public?
3. Measures put in place by the ministry towards protection and conservation of River Athi?
4. Challenges faced by NEMA in executing its mandate on environment protection and management in River Athi?

The Principal Secretary responded as follows:

**1. Provide a list of all industries/ companies/individuals discharging effluent in the River Athi and those compliant to effluent treatment standards and procedures?**

**ANSWER-**Most of the industries/companies and individuals within the Athi river catchment are connected to the sewer line, hence regulated by the Nairobi and Mavoko Water and Sewerage companies. As the lead agencies in that particular aspect of environmental management, the two companies are in a position to provide a list of all the companies connected to their sewer lines. However, for those not connected to the sewer line, NEMA regulates them through Effluent Discharge License (EDL). Attached is a list of industries and companies discharging effluent into River Athi and regulated by NEMA through the annual licensing.

NEMA has held several meetings with the water and sewerage companies and instituted various enforcement actions including taking the Nairobi Water and Sewerage Company to court for pollution of Nairobi River. These led to the fixing of major sewer bursts which were discharging into the river at the globe cinema round about, the collapsed Ruai sewer trunk line; major sewer expansion at Zimmerman and Kasarani area; expansion and dislodging of Kenanie treatment works. However, even with these improvements NEMA has continued to receive complaints on sewer overflows which is an indication that the sewer line capacity cannot handle the amount of sewer, hence leading to frequent sewer bursts and overflows.

**2. Whether the National Environment Management Authority (NEMA) carried out Environmental Impact Assessment studies before issuing operating licence to all factories around River Athi and whether inspection is carried out regularly to safeguard the environment and general health of the public?**

**ANSWER-**NEMA was established in December, 2003 and the Environmental (Impact assessment and Audit) Regulations, 2003 came into force in 2004. Projects which existed before 2004, including factories along Athi River were required to submit Initial Environmental Audit Reports by the end of the year 2005. Projects that were proposed after coming into force of the Environmental Impact Assessment/Audit Regulations, 2003, were required to conduct Environmental Impact Assessment (EIA) for licensing by NEMA prior to commencement of the proposed developments.

It is therefore NEMA's position that the facilities along Athi River submitted Initial Environmental Audit Reports and EIA reports for review and approval. To ensure continuous monitoring, these regulated facilities have also been submitting Annual Environmental Audit Reports, obtaining effluent discharge licenses and obtaining waste management licenses.

NEMA has periodically been conducting on-site inspections to ensure compliance with the set standards.

He confirmed that NEMA acts swiftly to any reported cases of environmental pollution to ensure that the integrity of the environment is maintained.

### **3.Measures put in place by the Ministry towards protection and conservation of River Athi?**

**ANSWER-** in order to protect and conserve River Athi, the Ministry has undertaken the following through NEMA:

- a) Developed and initiated implementation of Athi-Sabaki River pollution & control strategy in 2015. The strategy is being implemented in seven (7) Counties that are within the river catchment; that is Nairobi, Kiambu, Machakos, Kitui, Makueni, Taita Taveta and Kilifi. The implementation of this strategy is spearheaded by NEMA County Directors of Environment in their respective Counties working with the relevant stakeholders such as WRMA and the County Governments among others. The implementation of the strategy started in 2014/2015 Financial year and is ongoing.

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- b) Inventory and mapping of illegal effluent discharges into the Athi-Sabaki Rivers of which NEMA has identified and mapped 98 illegal discharge points into Nairobi River. The discharges are from sewer lines, residential houses, leachate from dump sites, garages, car wash areas and informal settlements. It was noted that 57 out of 98 were from sewerage. NEMA issued improvement notices to the point source pollutants and corrective measures were put in place to stop the discharges such as those from the University of Nairobi at the Chiromo round about and, the Nairobi Water and Sewerage Company among others. This is an ongoing process and will continue in the current financial year.

- c) Implementation of a Cleaner Production Program, which is a major intervention being undertaken by NEMA in partnership with the Kenya National Cleaner Production (KNCP) to assist companies to comply with environmental legislation. Under the programme many industries have put in place interventions to stop illegal discharges and emissions to the Environment. The intervention is being implemented in three regions of the Lake Victoria Basin, Nairobi Region and Coast Region.

The Nairobi region program started in April 2014 and the first phase has accomplished the following:

- (i) GIS mapping of 28 industries that have a direct or indirect pollution impact on the Nairobi River Basin.
  - (ii) Sampled wastewater from the 28 mapped industries before and after treatment for analysis on the levels of pollution.
  - (iii) Training workshop for representatives from the 28 mapped industries in preparation for the in-plant assessment.
  - (iv) In-plant assessments for nine (9) industries have been done and measures for efficiency and source reduction of waste put in place. NEMA intervened to have Kenanie water treatment plant (EPZ) in Machakos County undergo dislodging and is currently being upgraded to manage the increased effluent volumes.
  - (v) Industries in the upper catchment area of Nairobi, Kiambu and Machakos are subjected to close monitoring through the compliance assistance programme. Further, other industries under the program have reduced discharges and emissions to the environment at different scales.
- d) The Ministry through NEMA in collaboration with the World Student Community for Sustainable Development Kenya (WSCSD – Kenya) and support from various stakeholders, have partnered to implement the ‘Adopt-a-River Initiative’. This entails students from universities, colleges, secondary school, and community youth groups in the upper catchment of Nairobi River monitoring the health of rivers. The project’s overall objective is to strengthen the link between teaching and sustainability challenges in the real world.

Specifically, the project aims to achieve the following:-

- (i) Strengthen monitoring of the River Basin streams by local stakeholders,
- (ii) Steer restoration of polluted streams within the River Basin to make them more clean and healthy, and
- (iii) Create awareness among the young on the effects of human activities on the water bodies for sustainable development.

To compliment the work being done by NEMA on river Athi, the Water Resources Management Authority (WRMA) has undertaken a number of interventions including the following:-

- (i) Implementation of Effluent Discharge Control Plans (ECDPs). There are currently two court cases against the Export Processing Zone; and the Agrochemical and Food company for pollution of the Athi and Nyando Rivers respectively. In 2014/15, the improvement in compliance rate to the ECDPs was 11.6% against a target of 12%. The target for 2015/16 was to improve the compliance rate by a further 20%.
- (ii) Pollution surveys: WRMA has cumulatively carried out 31 pollution surveys to date.
- (iii) River clean-ups in which the target is to undertake at least one clean-up per region per year and encourage other stakeholders such as the WRUAs to sustain the clean ups. To date, clean ups have been undertaken in some rivers which include Kiu (Kiambu), Gatharaine (Kiambu), Machinjoni (Trans-Nzoia), Kisat (Kisumu), Migori, Athi River at fourteen falls (Kiambu and Machakos), Lwatingu (Kakamega), and Iwakhakha (Bungoma).

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- (iv) The Athi River Restoration Programme was initiated in 2015. Planned sub-programmes will be implemented as soon as budgets are secured
- (v) Water Quality Monitoring and assessments in which a total of 264 surface water and 149 groundwater monitoring stations have been established countrywide to monitor trends in water quality and impacts of management measures taken.
- (vi) Improvements of the sewerage infrastructure in the city are being undertaken by the Nairobi City Water and Sewerage Company with support from AfD. Earmarked interventions include expanding trunk lines, reticulations and rehabilitating the Kariobangi and Ruai treatment plants. In addition, the Water

Services Trust Fund is already providing water and sanitation services in informal settlements.

Other measures put in place include the following:-

- NEMA has established specific contacts at the Nairobi City County and the Nairobi City Water and Sewerage Company where the Authority refers illegal dumpsites and discharges respectively for quick attention.
- Create public awareness on the necessity of embracing a paradigm shift in the way we carry out development for the benefit of all, including the environment.
- Established a river restoration committee at the national level. This committee comprises Institutions whose mandates touch on river conservation. The Ministry intends to establish similar committees at the County level. The National committee will guide the policies on the conservation of rivers whereas the committees at the County will implement conservation programs at the County level.
- The Ministry has already appointed County Directors of Environment (NEMA) for all the 47 Counties. Part of their work is to ensure that the programmes being undertaken at the County level are complementary to those being undertaken at the National level.
- The 47 Counties are in the process of forming the County Environment Committee (CEC) as per EMCA in collaboration with NEMA. The CEC is responsible for the proper management of the environment within the County for which it is appointed and development of County Strategic Environmental Action plan every five years. Marsabit, Kajiado and Embu Counties have already gazzetted their County Environment Committees. Other Counties are at various stages of forming their committees.

#### **4. Challenges faced by NEMA in executing its mandate on environment protection and management in River Athi?**

**ANSWER-** faces various challenges in executing its mandate. They include the following:-

- (i) Inadequate financial resources to enable it undertake sensitization and enforcement of environmental laws.
- (ii) Inadequate human resources for enforcement of environmental laws. In compliance with the Constitution of Kenya, 2010, NEMA has established 47

County offices. However, most of the Counties have two or three officers who are not able to attend to all the environmental issues within the vast Counties.

- (iii) Lack of political good will in compliance to environmental laws.
- (iv) Lack of comprehensive spatial planning including inadequate infrastructure which is further complicated by piecemeal change of users.
- (v) Widespread informal settlements which are a major source of pollution to water bodies. In some of them, sewer lines have been punctured for agricultural use leading to overflow of sewage to the environment.

The Principal Secretary further informed the Committee the following:

1. The Ministry was Working on a National clean-up day;
2. 80% of the polluters come from the informal settlement and informal sectors such as jua kali artisans;
3. On the compliance on the safety standards, a self-monitoring system was used by industries. The industries then submitted a report is submitted to NEMA on a quarterly basis and where non-compliance exist, measures are taken which may include closure.

### **COMMITTEE CONCERNS**

The committee raised the following concerns:

1. The companies and industries involved in pollution should be investigated, exposed and necessary action taken to safeguard public health and life;
2. An multi-agency unit should be set to coordinate the conservation and protection of River Athi;
3. The pollution in River Athi should be addressed immediately as the river was the source of water for the multi-billion Thwake project. Further, the Konza city project was at a risk as investors could pull out due to the pollution of the river;
4. There is need to enhance the funding of NEMA to enable the agency set up its own testing laboratories and also to recruit more staff; and
5. NEMA should consider engaging development partners as an alternative source of funding instead of relying on the exchequer.

### **WAY FORWARD:**

After deliberation the Committee resolved that,

1. The Committee and the Ministry of Environment and Natural Resources with National Environment Management Authority officials will make a visit to different sections of the River Athi to assess the pollution; and
2. On the budget allocation, the Ministry should engage the Cabinet Secretary for Treasury and voice their key underfunded programmes/sectors in the Ministry.





MINUTES OF THE 49<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES HELD ON TUESDAY 30<sup>TH</sup> JUNE, 2016 AT 10.30 AM IN THE CPA ROOM, PARLIAMENT BUILDINGS

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**PRESENT**

1. Hon. Abdalla Amina, M.P. – **Chairperson**
2. Hon. Ganya Francis Chachu, M.P.
3. Hon. Ole Kenta Richard Moitalel, M.P.
4. Hon. Kathuri Murungi, M.P.
5. Hon. Dr. Wanyonyi Reginalda N. M.P.
6. Hon. Ndiritu Samuel Mathenge, M.P.
7. Hon. Rop Jackson Kipkorir, M.P.
8. Hon. Richard Makenga, M.P.
9. Hon. Sunjeev Kaur Birdi, M.P.

**APOLOGIES**

1. Hon. Alexander Kosgey, M.P. – **Vice Chairperson**
2. Hon. Tonui Ronald Kiprotich, M.P.
3. Hon. Barua Ejidius Njogu, M.P.
4. Hon. Irea Gideon Mwiti, M.P.
5. Hon. Muluvi Marcus Mutua, M.P.
6. Hon. Jude Njomo, M.P.
7. Hon. Geni Charles Mong'are, M.P.
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9. Hon. Ottichillo K. Wilber, M.P.
10. Hon. Peter Kinyua, M.P.
11. Hon. Ng'ang'a Alice Wambui, M.P.
12. Hon. Gure Shukra Hussein, M.P.
13. Hon. Joyce Lay, M.P.
14. Hon. Isaac Mwaura, M.P.
15. Hon. Emanikor Joyce, M.P.
16. Hon. Farah, Abdulaziz Ali, M.P.
17. Hon. Abdinoor Mohammed Ali, M.P.
18. Hon. Dukicha Hassan Abdi, M.P.
19. Hon. Zuleikha Hassan, M.P.
20. Hon. Mohamed Diriye Abdullahi, M.P.

## THE NATIONAL ASSEMBLY

- |                            |                       |
|----------------------------|-----------------------|
| 1. Ms. Tracy Chebet koskei | - Clerk Assistant II  |
| 2. Mr. Hassan A. Arale     | - Clerk Assistant III |

MIN.NO. DC-ENR/176/2016:

### PRELIMINARIES

The meeting was called to order at 10.30 am after which prayers were said. The chair then welcomed the members to the meeting.

### MIN. NO. DC-ENR/177/2016: MEETING HON. FRANCIS MWANGANGI REGARDING HIS PETITION ON BEHALF OF RESIDENTS OF YATTA CONSTITUENCY ON POLLUTION IN RIVER ATHI

The Hon Francis Mwangangi Member for Yatta Constituency presented the petition on behalf of the residents of Yatta Constituency on the pollution of River Athi and drew the attention of the house as to the following:

1. Article 42 of the constitution accords every person the right to a clean and healthy environment;
2. River Athi is an important source of water for residents of Kajiado, Nairobi, Machakos, Kitui and Makeni Counties;
3. The residents of this Counties utilize the river water not only for domestic use but also for irrigation;
4. Industries and other entities surrounding the river have been discharging effluent to the river thus polluting and rendering it a health hazard;
5. The continued discharge of effluent to the river poses a threat to the health of the residents in the surrounding areas;

Therefore the Petitioners prayers were that the National Assembly, through the Departmental Committee on Environment and Natural Resources:

- I. Intervenes to prevent further discharge of affluent from industries and have the River cleaned up; and
- II. Ensure that those responsible for the pollution are held accountable.

In addition, the Member for Yatta Constituency informed the Members that River Athi Contributes three quarters of the water supply of (Ukambani) Eastern regiona Kshs 50b Water Dam is under construction and is intended to draw its water from this river therefore the need to protect it from pollution.

The pollution to River Athi was from waste from households, hospitals, industries and road contractors working in the area. The petitioner further informed the Members that some of observable characteristics of the possible pollution included: The water has turned green in appearance, a large foam on the water in some parts that can be observed from far and also there are reported cases of cholera outbreak by the residents using the water for domestic purposes.

**WAY FORWARD:**

Following deliberation the Committee made the following resolutions:

1. The Cabinet Secretary for the Ministry of Environment and Natural Resources should be invited to shed light on the issues raised by the Petitioners;
2. There is need to invite the National Environment Management Authority (NEMA) to explain to the Committee What challenges if any, the agency is facing in the execution of its mandate of environment protection and conservation as regards River Athi; and
3. If NEMA carried out impact assessment before issuing operating licence to this factories and whether regular inspection is done to safeguard the environment and general health of the public living around River Athi.

MIN.NO. DC-ENR/178/2016:

ADJOURNMENT

There being no other business the meeting was adjourned at 11.15am.

SIGNED.....

(Chairperson)

DATE.....25/7/2016.....

