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SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND
NATURAL RESOURCES

REPORT ON THE PETITION BY TWENTY (20) PETITIONERS AND
PRESENTED BY THE SENATOR OF MURANGA, COUNTY SEN. IRUNGU
KANGATA MP, ON THE PROPOSED MITUBIRI SANITARY LANDFILL
PROJECT

PAPERS LAID	
DATE	21/06/2018
TABLED BY	Chairperson
COMMITTEE	L, E & NR
CLERK AT THE TABLE	CM

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

JUNE, 2018

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PREFACE

Establishment of the Committee

The Senate Standing Committee on Land, Environment and Natural Resources is established under the standing order 212(3) of the Senate Standing Orders. The mandate and the functions of the committee are set out under the Second Schedule to the Senate Standing Orders to consider all matters relating to lands and settlement, housing, environment, forestry, wildlife, mining, water resource management and development.

In executing its mandate, the Committee oversees the Ministries of:

1. Ministry of Lands;
2. Ministry of Environment and Forestry;
3. Ministry of Water and Sanitization;
4. Ministry of Petroleum and Mining; and
5. Ministry of Transport, Infrastructure, Housing and Urban Development.

Petitions

Pursuant to the standing order 226 of the Senate Standing Orders, the Committee is mandated to consider and report on any petition committed to it by the House.

The following report on the Petition by twenty (20) Petitioners and presented by the Senator of Muranga, County Sen. Irungu Kangata MP, on the proposed Mitubiri Sanitary Landfill Project is committed to the Committee pursuant to standing order 226 of the Senate Standing Orders, which contains the determined prayers of the petitioner and recommendations.

The petitioners submitted their prayers pursuant to Articles 37 and 119 of the Constitution and in line with the provisions of the Petition to Parliament (Procedure) Act, 2012 and the Senate Standing Orders.

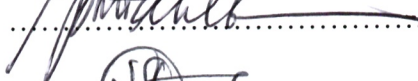
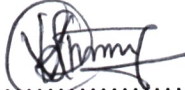
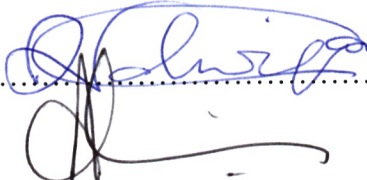

The Committee considered the prayers of the petitioners. The Committee in the process procured evidence, reviewed documents and invited stakeholders. The evidence obtained from these exercises informed the determination of the prayers of the petitioners by the Committee.

Membership of the Committee

The Committee is comprised of the following members;

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

We, Members of the Standing Committee on Land, Environment and Natural Resources do hereby affix our signatures to this Report to affirm the correctness of the contents and support for the Report –

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

Acknowledgement

The Committee wishes to acknowledge the time and considerable effort made by all parties who volunteered information to help determine the prayers of the petitioners. I also wish to express my gratitude to the members of the Committee for their thoughtful and engaged contribution to the matter. Further the Committee is indebted to the Office of the Speaker and the Clerk of the Senate for facilitating this activity. I also wish to recognize the commitment and dedication of the staff of the Committee that made the work of the Committee and the production of this report possible.

Mr. Speaker Sir,

It is now my pleasant duty to table the report of the Standing Committee on Land, Environment and Natural Resources, in relation to the petition pursuant to the Senate Standing Order 226(2).

Signed.......... Date..... 14-06-18

Sen. Mwangi Paul Githiomi, EGH, MP,

Chairperson,

Senate Standing Committee on Land, Environment and Natural Resources.

List of Abbreviations/ Synonyms

1. CS - Cabinet Secretary
2. ESIA - Environmental and Social Impact Assessment
3. NaMSIP - Nairobi Metropolitan Services Improvement Project
4. NEMA - National Environmental Management Authority
5. NMR - Nairobi Metropolitan Region

INTRODUCTION

1. Background of the petition

1. The Standing Committee on Land, Environment and Natural Resources is mandated under the standing order 226 of the Senate Standing Orders to consider and report on any petition committed to it by the House.
2. On 6th March, 2018, pursuant to standing order 224 (2) (b) of the Senate Standing Orders, the Speaker of the Senate reported to the Senate a Petition presented through the Clerk of the Senate by Sen. Irungu Kang'ata on behalf of Sammy Muriuki, Noah Gachucha, Eliud Maina, Edna Njoki, Davis Mburu, Thairu Ngone, Abdalla Juma, Jane Wairimu, Benjamin Kamau, Jecinta Wambui, Hamisi Maina, Fredrick Njoroge, Madrine Wanjiru Waigwa, Jephitha Githuka, Gichuhi Mwangi, Allan Njomo, Stephen Ruthi, Patrick Wamae, Chrispin Maitho and Charles Ngure.

1.1 The Petition

3. The petitioners drew the attention of the Senate to the following-
 - (1) *That there is a proposed sanitary landfill project which will be located in Maragua Sub County, Mitubiri in Gikono area and will be located on an area of 19.57Ha.*
 - (2) *The proposed project site is located in Mitubiri which is largely an agricultural area and fast developing due to its proximity to Thika town and Kenol town.*
 - (3) *That the proposed project intends to collect waste from Nairobi, Kiambu, Kajiado, Murang'a and Machakos counties which will be sorted at the site.*
 - (4) *That NEMA has conducted an Environmental Impact Assessment with a view of enabling the residents to make an informed decision on the project.*
 - (5) *That Murang'a County government has dismissed claims that it was involved in the planning for the proposed Mitubiri sanitary landfill project.*
 - (6) *That locals have raised concern that the project will turn the county into a dump site and also affect ground water, pollute surrounding soil due to non-biodegradable matter which will be buried.*
 - (7) *That landfills have the potential to cause serious health issues due to presence of dangerous elements such as lead, mercury, cadmium which are seriously hazardous for humans.*

4. In their Petition, the petitioners pray that the Senate investigates this matter with a view to ensuring that-

- (1) *Obtain an undertaking from the cabinet secretary in charge of the ministry of Transport and Infrastructure that the said sanitary landfill project will be halted to allow for more consultation.*
- (2) *That appropriate safety audit should be undertaken for the sanitary project to guide on the implementation and effects of the landfill sanitary project thereafter.*
- (3) *That fresh public participation to be conducted by relevant Ministry for residents to fully understand the project implications.*
- (4) *Where Senate gathers evidence as to its unviability in the said location, obtain from the concerned cabinet secretary an undertaking of cancellation and relocation of the said project.*
- (5) *Any other resolution the Senate deems fit.*

1.2 The right to petition

5. The right of Kenyan citizens to petition public authorities and Parliament is a right guaranteed under Articles 37 and 119 of Constitution. This right is governed by the Petition to Parliament (Procedure) Act 2012 as well as the Standing Orders of the Senate. The right to petition is an essential citizen participatory tool, as it provides an avenue for Members of Parliament and citizens to interact on the issues that concern citizens and also demonstrates that Parliament is prepared to directly intervene on issues of concern in order to promote and protect the rights of citizens.

1.3 The basis of the petition

6. The petitioners in this case are from Maragwa, Kandara, Kigumo and Gatanga constituencies in Murang'a County and the Committee resolved to invite the County Leaders, Cabinet Secretary, Ministry of Roads, Infrastructure and Housing, Cabinet Secretary, Ministry of Environment and Forestry, Director General National Environmental Management Authority (NEMA) and the Director, Metropolitan Authority.
7. The Committee was able to meet with the Cabinet Secretary, Ministry of Roads, Infrastructure and Housing, Cabinet Secretary, Ministry of Environment and Forestry, Director General National Environmental Management Authority (NEMA) and the Director, Metropolitan Authority.
8. The Committee was unable to meet the County Leaders as the County Executive was hesitant to meet the Committee.

2.1 The approach

9. The Committee analyzed the Petition committed to it by the House and purposed to respond to the prayers of the petitioners. The Committee invited the petitioners and the respondents respectively. The sole objective of the Committee was to respond to the prayers of the petitioners conclusively.

2.2 Meeting with the Petitioner

10. The Senator, Murang'a County being the sponsor of the petition was representing the 20 petitioners from Muranga County and he informed the Committee that the following are reasons as to why the project is being opposed-

- i). Lack of sufficient Public Participation;
- ii). An Environmental Impact Assessment has not been done;
- iii). It's a metropolitan project involving 5 counties; and
- iv). The already high population density of Murang'a.

11. He further informed the Committee that recent developments have since lead the CS Transport and Infrastructure to recently halt the project but did not give timelines. Therefore the petitioner's prayer is that the Committee invites all the relevant authorities to appear before the Committee so as to shed more light and give a lasting way forward on the matter.

2. Meeting with the CS Ministry of Transport, Infrastructure, Housing and Urban Development and Directorate of Nairobi Metropolitan Development

12. The CS began by informing the Committee that solid waste disposal in the Country remains a major challenge with most Counties lacking technical and institutional capacity to manage waste.
13. He informed the Committee that the Ministry has overtime engaged stakeholders in the identification and site selection, feasibility and design studies of the proposed project and thus came the agreement to have the proposed Mitubiri Sanitary Landfill located in Kimorori/Wempa ward in Murang'a County and will therefore be the first Landfill in Kenya.

14. The National government through the Ministry of Transport, Infrastructure, Housing and Urban Development is undertaking several projects to address the needs of the greater Metropolitan region. The projects are part of the Metro 2030 strategy that is anchored in the Vision 2030 strategy which is Kenya's long term development blue print. The objective of Metro 2030 strategy is to transform Nairobi and the four neighboring counties namely; Nairobi, Kiambu, Kajiado, Machakos and Murang'a into a sustainable "world-class African metropolis" that is safe, secure and prosperous.
15. This region known as the Nairobi Metropolitan Region (NMR) is a pilot plan for the growth of other Metropolitan regions in the country. One of the projects under this Ministry is the Nairobi Metropolitan Services Improvement Project (NaMSIP) domiciled in the State Department of Housing and Urban Development, under the Directorate of Metropolitan and Urban Development and managed by the Department of Metropolitan Development and is financed by the World Bank.
16. As a flagship project, NaMSIP promotes orderly urbanization by focusing on land use planning, and infrastructure development with emphasis on solid and liquid waste management, strategic roads, green spaces, markets and other urban facilities.
17. Murang'a County, like all other Counties in the Nairobi Metropolitan Region is experiencing increased environmental pollution mainly due to inadequate disposal of solid waste. In order to address this inadequate solid waste management and as a part of the national solid waste management strategy, the Government of Kenya, through the Ministry of Transport, Infrastructure, Housing and Urban Development, commissioned the design of a Mitubiri Sanitary Landfill under the ongoing Nairobi Metropolitan Services Improvement Projects (NaMSIP) financed by World Bank.
18. Sanitary land-filling is a contained and engineered solid waste management structure, designed to encourage anaerobic biodegradation and consolidation of compacted refuse materials within confining layers of compacted soil. At a proper sanitary landfill, there are no nuisance impacts of constant burning, smoke, flies, vectors, windblown litter, and unsightly rubbish heaps.
19. He further informed the Committee that this is not a dump site but a Landfill Project that is very different from a dump site as is widely used. The fact that the CS clarified is that the Project is **only** for Murang'a County and not for all the neighboring Counties including Nairobi County. Its only that they are starting with Murang'a

County as they were the first to develop interest then after the project is complete the next County to develop interest was Kajiado County.

20. The CS also informed the Committee that Tours had already been done for comparative lessons to be gained on the landfills and further that all risks have been mitigated by the Ministry.

21. The Engineer from the Ministry informed the Committee that a detailed feasibility study has been done and Murang'a County was the first county to purchase 50 acres at a cost of around 135 Million for the project that was paid by the County Government.

He informed the Committee that Murang'a County's waste is upto a tune of 500 tonnes per day and this give the County upto 10 years depositing waste in the Landfill.

Later on after the Landfill is filled up, it will then be decommissioned and converted into a recreational park.

22. The Environmental and Social Impact Assessment (ESIA) report is at its final stage after which it will then be submitted to NEMA. The Environmental expert from the Ministry informed the Committee that the EISA report talks about wider public participation on the project.

23. He informed the Committee that issues to do with the quality of air, contamination of ground water and mitigating measures, adequate research is being done with solutions like underground piping and membranes being used to deal with these. All these and other measures are included in the feasibility study.

Zoning is also being done for the affected areas and the residents will be adequately compensated.

The Ministry provided a well annexed report to the Committee responding to the Committee diagrams and all documentation that pertains to the aforementioned petition.

3. Meeting with the CS Environment and Forestry and NEMA

24. The CS informed the Committee that indeed on the 28th of February, 2018 the proponent Ministry of Transport, Infrastructure, Housing and Urban Development organized a consultative forum with the aim of providing a platform for stakeholders to engage and share factual information about the proposed Landfill.

The recommendations by the forum were;

1. The need for further engagement with the political leadership in Murang'a County,
 2. The need for the Nairobi Metropolitan Services improvement Project (NAMSIP) to further engage with the technical team of Murang'a County,
 3. The need to form a team that will include County Government of Murang'a and its residents who will conduct benchmarking tours to Arusha and Durban with the aim of appreciating the operation of similar projects first hand.
25. From the Ministry of Environment and Forestry the Committee was informed that they come in at the point where the proponent is to submit the terms of reference for the study report as guided by their letter to the Ministry of Transport dated 30th March, 2017.
26. Then once the terms of reference are approved, the proponent will then be expected to submit the study reports for the review by the Ministry of Environment for decision making.
27. In terms of Environmental acceptability the CS informed the Committee that Landfills are the way to go and that if properly done to the desired standards then all counties should emulate the same.
28. The Committee then agreed that since this is a Murang'a County matter then there shouldn't be any problem since it will at the end of the day benefit the people of Murang'a and even provides opportunities for them.

The chairperson urged NEMA that when eventually the ESIA report reaches them they should be able to factor in the concerns of the political leaders as they are there to represent the people and their concerns.

4. Issues for determination from the prayers of the petitioners

29. To respond to the petitioner's prayers the Committee analysed the petition and set to determine whether: -
- (1) the said sanitary landfill project will be halted to allow for more consultation.
 - (2) appropriate safety audit will be undertaken for the sanitary project to guide on the implementation and effects of the landfill sanitary project thereafter.

- (3) fresh public participation will be conducted by the relevant Ministry for residents to fully understand the project implications.
- (4) an undertaking of cancellation and relocation of the said project if there is enough reason to do so.

5. Committee Proceedings

The committee held two deliberative sessions and reviewed documents at the centre of the prayers of the petitioners to determine the issues raised therein.

6. Deliberative sessions

In the exercise of its mandate the Committee held deliberative sessions to closely examine and hear presentations from petitioners on 15th March, 2018 and the relevant cabinet secretaries on 4th April 2018. The Minutes of these sessions as well as the documents and evidence presented to the committee are annexed to the report.

7. Documents review

The Committee reviewed documents presented to it by the different parties. The documents tabled by the parties are also annexed to this report.

Chapter 3

Committee Observations

On Prayer 1:

The Committee observed that since the relevant ministries have taken up the matters as outlined by the Petitioners, it then follows that the prayers of the Petitioners have been taken up and the proposed sanitary landfill project has since been halted to allow for more consultation.

On Prayer 2:

The Committee also noted that the Ministry of Environment and Forestry together with NEMA have committed to doing an appropriate safety audit for the sanitary project to guide on the implementation and effects of the sanitary landfill project thereafter.

On Prayer 3:

The Committee observed that a fresh round of public participation is being done given the affirmation by the Ministry of Transport, Infrastructure, Housing and Urban Development that it is being conducted by the Ministry of Transport, Infrastructure, Housing and Urban Development seeking to ensure that both leaders of Murang'a County and members of the public are well enlightened of the project. They further demonstrated the approach they are taking to ensure these is done.

On Prayer 4:

The Committee observed that since the Project is earmarked only for Murang'a County and not for all the neighboring Counties, then there shouldn't be any reason to warrant cancellation of the entire project. The Committee noted that that the Ministry of Transport, Infrastructure, Housing and Urban Development is only starting with Murang'a County as they were the first to develop interest in the project then after the project is complete they will proceed to other counties.

1. The Committee recommends that the Ministry of Transport, Infrastructure, Housing and Urban Development together with the Ministry of Environment should engage widely with the all Leaders of the County Government and also involve the general public and residents of Murang'a County during its fresh round of public hearings and consultations;
2. The Committee further recommends that NEMA should ensure that an appropriate Environmental Impact Assessment as well as a safety audit is being done before and after the project will be completed so as to cater for the interests of the residents of Murang'a County;
3. The Committee recommends that the Political Leadership of Murang'a County must work together and have an agreeable way forward especially on this on the matter and other beneficial projects to the entire County Government and residents of Murang'a County; and
4. The Committee recommends that subject to the relevant approvals from NEMA and other regulatory institutions, the Ministry of Transport, Infrastructure, Housing and Urban Development should be able to kick off the project as a soon as possible.