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Resources  
*(Signature)*

TWELVETH PARLIAMENT - SECOND SESSION

THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT & NATURAL  
RESOURCES

REPORT ON THE BUDGET IMPLEMENTATION FOR THE THIRD AND FOURTH  
QUARTER FOR THE FY 2017/18 FOR THE:-

- VOTE 1105: MINISTRY OF ENVIRONMENT AND FORESTRY
- VOTE 1103: MINISTRY OF WATER AND SANITATION
- VOTE 1106: STATE DEPARTMENT FOR WILDLIFE
- VOTE 1091: STATE DEPARTMENT FOR MINING

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

NOVEMBER, 2018

## Table of Contents

<b>1.0 PREFACE</b> .....	2
<b>1.1 Committee Mandate</b> .....	3
<b>1.2 Oversight</b> .....	3
<b>1.3 Members of the Committee</b> .....	3
<b>1.4 Secretariat</b> .....	4
<b>1.5 Consideration of the Budget Implementation</b> .....	4
<b>1.6 Committee Observations and Recommendations</b> .....	5
<b>1.7 Acknowledgements</b> .....	5
<b>2.0 CONSIDERATION OF THE BUDGET IMPLEMENTATION FOR THE FIRST AND SECOND QUARTER.</b> .....	9
2.1 Ministry of Mining.....	10
2.2 Meeting The State Department Of Environment and Forestry .....	<b>Error! Bookmark not defined.</b>
2.3 Meeting With the State Department of Natural Resources .....	10
2.4 Meeting With State Department for National Water Services.....	16
<b>3.0 COMMITTEE OBSERVATIONS</b> .....	16
<b>4.0 COMMITTEE RECOMMENDATIONS</b> .....	23

## 1.0 PREFACE

### **1.1 Committee Mandate**

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.

### **1.2 Oversight**

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

- i. The Ministry of Environment and Forestry;
- ii. The Ministry of Water and Sanitation;
- iii. The State Department for Wildlife; and
- iv. The State Department for Mining

### **1.3 Members of the Committee**

The Committee comprises the following Members:

1. **The Hon. Japhet M. Kareke Mbiuki, MP – Chairperson**
2. **The Hon. Sophia Abdi Noor, MP – Vice-Chairperson**
3. The Hon. Ali Wario Guyo, M.P.

4. The Hon. Amin Deddy Mohamed Ali, M.P.
5. The Hon. Beatrice Cherono Kones, M.P.
6. The Hon. Benjamin Dalu Tayari, MP.
7. The Hon. Benjamin Jomo Washiali, M.P.
8. The Hon. Charity Kathambi Chepkwony, M.P
9. The Hon. Charles Ong'ondo Were, M.P.
10. The Hon. David Kangogo Bowen, M.P.
11. The Hon. Francis Chachu Ganya, M.P.
12. The Hon. Hassan Oda Hulufu, M.P.
13. The Hon. Hilary Kiplang'at Kosgei, M.P.
14. The Hon. Nasri Sahal Ibrahim, M.P.
15. The Hon. Peter Kimari Kihara, M.P
16. The Hon. Paul Musyimi Nzengu, M.P.
17. The Hon. Rehema Hassan, M.P.
18. The Hon. Rossa Buyu. M.P.
19. The Hon. Said Hiribae, M.P.

#### **1.4 Secretariat**

The Committee is serviced by the following Members of Staff:

Ms. Esther Nginyo  
Mr. Dennis Mogare  
Ms. Amran Mursal  
Mr. Salem Lorot  
Ms. Winnie Kulei

**Clerk Assistant II**  
**Clerk Assistant III**  
**Fiscal Analyst III**  
**Legal Counsel II**  
**Research Officer III**

#### **1.5 Consideration of the Budget Implementation**

The Committee held a workshop in Mombasa from 23<sup>rd</sup> – 26<sup>th</sup> August, 2018, during which it met with the Ministries, departments and agencies under its purview to track their budget implementation for the 3<sup>rd</sup> and 4<sup>th</sup> Quarters of 2017/2018 Financial Year. This was a follow up of a similar meeting that was held in February, 2018 for the consideration of the 1<sup>st</sup> and 2<sup>nd</sup> quarter expenditures. During the meeting which was held at the English Point Marina in Mombasa, the Committee met with the Ministry of Environment and Forestry, Ministry of Water and Sanitation, State Department of Wildlife and State Department of Mining to deliberate on their budget implementation for the third and fourth quarter of the FY 2017/2018.

## **1.6 Committee Observations and Recommendations**

The Committee made the following observations, that:

- i. There were two supplementary budgets that were introduced in the course of the 2017/18 financial year with the first supplementary budget approved barely two months into the financial year. It was noted that most of the budget adjustments in the development budget were with respect to ongoing projects, some of which had contractual obligations that, if breached, would lead to payment of penalties as well as slowing down or even completely stalling these projects. Furthermore, disruption of expenditure allocations midway means that there may be deferred payments leading to pending bills at the end of the financial year. Pending bills, being priority payments in government spending, further reduce available development oriented resources while necessitating special audits within the year to ascertain their nature.
- ii. Performance Reporting- The financial reporting by the National Treasury seems to indicate the various spending agencies are performing well in terms of the absorption rates recorded. However, a critical component of measuring performance is whether the various targets set are being realized. Therefore the National Treasury and Controller of Budget (COB) should provide clear reporting on the status of various development projects being implemented and achievements made on each Programme outputs/ targets.

### **Ministry of Water and sanitation**

- i. The State Department for Water received over 90% of the exchequer for 2017/18 financial. This was an improvement from the previous financial years, however, the exchequer with respect to development projects was relatively lower at 90% release compared to recurrent which had 97% release.
- ii. The Regional Water Boards had a problem with loans guaranteed by the National Governments and were to be paid by the counties. It was also observed that only the County of Nyeri was servicing the loans guaranteed by the National Governments.
- iii. The 2018 Executive Order moved the functions of Water Harvesting and Flood Control and Water for Schools from the State Department for Irrigation to the Ministry of Water and Sanitation. These functions moved with the resources for 2018/19 financial year.

- iv. The Umaa and Badasa dams were cumulatively estimated to cost about Kshs. 3.2 billion. The projects have stalled for a long time, thereby denying Kenyans the most needed water services.
- v. There was ambiguity surrounding the tendering process of the Kakamega Bulk project. This had stalled and delayed the project implementation thereby denying water services to the people in that region.
- vi. The Ministry of Water and Sanitation was in final stages of a draft policy formulation; however, there was no evaluation report of previous policies with a view to building on their achievements and mitigating challenges encountered in implementing them previously.
- vii. There were a lot activities and encroachments in to upstream water catchment areas rendering previously permanent rivers into seasonal rivers with dire consequences on downstream water users.

#### **Ministry of Environment and Forestry**

- i. The Ministry had a cumulative pending bills amounting to **Kshs. 974 million** in the financial year 2017/18 which was as a result of non- release of exchequer and budget cuts through supplementary estimates. Therefore, Pending bills, being priority payments in government spending, further reduced available development oriented resources for the next Financial year
- ii. The Ministry had serious succession management issues since management staff had exited the service leadership vacuum. This was particularly the case at the Kenya Meteorological Department that had officers retiring without employing new one.

#### **State Department for Wildlife**

- i. The State Department for Wildlife had Kshs. 3 billion in endowment fund account under the Kenya Wildlife Service which was sourced from the standard gauge railway (SGR) and Kenya National Highways Agency (KenHA) as compensation for park interference by infrastructural development. The Committee further observed that, these monies were not captured in the submissions by the Ministry creating lack of transparency and accountability.
- ii. The committee noted that, expenditures towards activities related to the relocation of the 11 black rhinos that died in Tsavo sanctuary during the botched

translocation exercise was not reported on by the ministry in their submissions to the Committee.

### **State Department for Mining**

- i. There was serious underfunding towards the State Department for Mining which, as a result, failed to carry out the following activities;
  - a) National Airborne Geophysical Survey,
  - b) acquisition of specialized survey and laboratory equipment for the geological survey, mines inspectorate and mineral audit
  - c) overhaul of resource survey aircrafts and acquisition of field based operation vehicles
- ii. The National Airborne Geophysical Survey was being implemented through the Ministry of Interior and Coordination as part of the geospatial project. However, lack of input from the State Department for Mining could lead to the exercise not producing authentic and marketable data for the country's development.

### **Recommendations**

The Committee having deliberated with the ministries and state departments on the budget implementation for the third and fourth quarter of the FY 2017/2018 recommended as follows, that;

#### **General Recommendations**

- i. There should be proper and objective revenue forecasting with realistic underlying assumptions to avoid adjustments to the budget which is often necessitated by the missing revenue targets.
- ii. It is critical for the National Treasury and the Controller of Budget (COB) to report on budget performance by including an independent assessment whether spending agencies are meeting the various targets set and status of the various ongoing projects. This will augment the existing financial reporting to effectively capture the various sectors performance.

#### **Specific Recommendations**

##### **Ministry of Water and Sanitation**

- a) The Ministry of Water and Sanitation in conjunction with the National Treasury should come up with clear policies and guidelines on the loans guaranteed by the National Governments which are to be paid by the counties.
- b) The Ministry of Water and Sanitation should provide the National Assembly with the detailed work plan on how on the projects to be implemented by the Water Boards through the Water for Schools programmes as envisaged in the New Executive Order of 2018.
- c) The Ministry of Water and Sanitation should initiate **special audit** of Umaa and Badasa dams projects and other such dams to assess their soundness so as to come up with a clear way forward that would fast-track water services to Kenyans.
- d) The Ministry of Water and Sanitation should resolve the ambiguity surrounding the tendering process of the Kakamega Bulk project to avoid unnecessary litigations that may delay the intended benefits from the project.

#### **Ministry of Environment and Forestry**

- a) The Ministry of Environment and Forestry must clear the cumulative pending bills amounting to **Kshs. 974 million** in the financial year 2017/18 in the new 2018/19 Financial Year as pending bills form first charge of the subsequent year's allocation.
- b) The Ministry of Environment and Forestry should engage the National Treasury for allocation funds to address succession management issues at the Kenya Meteorological Department so as to recruit new staff.

#### **State Department for Mining**

- a) The National Treasury should provide adequate funding to the State Department for Mining if indeed the country was serious about being industrialized by the year 2030.



- b) The Ministry of Interior and Coordination of Government should work closely with the State Department for Mining in the execution of the National Airborne Geophysical survey for the authenticity of the data.

### **State Department for Wildlife**

The State Department for Wildlife must provide full disclosure on its budgetary status at all times.

### **1.7 Acknowledgements**

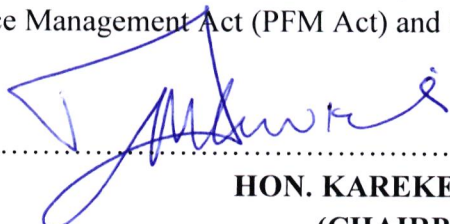
The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the support extended to it in the execution of its mandate.

I take this opportunity to thank all the Members of the Committee for their patience, sacrifice, endurance and hard work during the long sitting hours under tight schedules which enabled us to complete the tasks within the stipulated period.

The Committee wishes to record its appreciation for the services rendered by the staff of the National Assembly attached to the Committee. Their efforts made the work of the Committee and the production of this Report possible.

Finally, it is now my pleasant duty, on behalf of the Departmental Committee on Environment and Natural Resources, to present to the House this Report Budget Implementation for the Third and Fourth Quarters of the FY 2017/2018 pursuant to the provisions of section 39(8) of the Public Finance Management Act (PFM Act) and Standing Order 216 (5)(b).

SIGNED .....



**HON. KAREKE MBIUKI, MP  
(CHAIRPERSON)**

**DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES**

DATE.....

28/11/2018

## **2.0 CONSIDERATION OF THE BUDGET IMPLEMENTATION FOR THE THIRD AND FOURTH QUARTER FOR THE FINANCIAL YEAR 2017/2018 .**

The Departmental Committee on Environment and Natural Resources is established pursuant to Standing Order 216 to inter *alia* 'study the programme and policy objectives of the ministries and departments and the effectiveness of the implementation'.

The Committee held a workshop in Mombasa from 23<sup>rd</sup> – 26<sup>th</sup> August, 2018, during which it met with the Ministries, departments and agencies under its purview to track their budget implementation for the 3<sup>rd</sup> and 4<sup>th</sup> Quarters of 2017/2018 Financial Year. This was a follow up of a similar meeting that was held in February, 2018 for the consideration of the 1<sup>st</sup> and 2<sup>nd</sup> quarter expenditures. During the meeting which was held at the English Point Marina in Mombasa, the Committee met with the Ministry of Environment and Forestry, Ministry of Water and Sanitation, State Department of Wildlife and State Department of Mining to deliberate on their budget implementation for the third and fourth quarter of the FY 2017/2018.

The objective of the meeting was to assess effectiveness of the programs by Ministries, Departments and Agencies against the resources allocated to them for the third and fourth quarters of the FY 2017/2018.

### **2.1 Meeting with the Ministry of Water and Sanitation**

The Principal Secretary, Ministry of Water and Sanitation, Mr. Joseph Irungu, CBS appeared before the Committee on Friday, 24<sup>th</sup> August, 2018 and stated that:

1. The water sub-sector's overall goal is to provide access to adequate water for domestic, livestock, irrigation, industrial and other uses.
2. The following programmes were implemented in the Financial Year 2017/18.
  - a) Water Resource Management.
  - b) Water and Sewerage Infrastructure Development.
  - c) General Administration, Planning and Support Services.
3. On the Recurrent Vote, the Ministry was allocated Kshs3.374 million being Kshs678 million A-in-A and Kshs2,696 million net allocation. During the Supplementary II an additional Kshs467 million was approved being Kshs417 million A-in-A and Kshs50 million for personal emoluments. However, during the period, the National Treasury rationalized effected budget cuts across all government Ministries by 75 per cent. This translated to Kshs74 million reductions in the Recurrent Expenditure on the use of goods and services.
4. On Development Expenditure, the overall utilization of the Gok was 98.9 per cent. The overall utilization of the Loans and Grants was 63.5 per cent and 70.4 per cent
5. The Achievements for the FY 2017/18 include:
  - a) The operationalization of the Water Act (2016). The process is on-going.
  - b) The development of the National Water Sector transition plan. The process is on-going.

- d) The Kenya Water Institute (KEWI) Act 2001 was reviewed and a zero draft in place.
  - e) The National Water Conservation and Pipeline Corporation is transiting to National Water Harvesting Storage Authority.
  - f) Ground water resources mapping is ongoing.
  - g) 4 hydro meteorological network was installed.
  - h) Established two water quality monitoring and surveillance stations.
  - i) Ten sites for exploratory borehole drilling were identified and ten boreholes drilled in Turkana, Marsabit and Garissa aquifers.
  - j) 30 water abstraction and pollution surveys were undertaken to aid in effluent discharge control and equitable water allocations. Consultations on-going together with UMANDE Trust to construct eco san toilets in information settlements.
  - k) A joint technical team between Kenya and Ethiopia was established for the project on sustainable development and management of Lake Turkana and its river basins.
6. On Exchequer Receipts he stated that during the Financial Year 2017/18, the Ministry received a total exchequer amounting to Kshs16,616 billion. Out of this Kshs2,627 billion was for Recurrent budget and Kshs123, 992 billion for Development Budget. This includes GoK and Donor Revenue.
7. On the challenges in Budget Implementation he stated that:
- a) Low provision of recurrent budget as a proportion of development budget (allocation ration is 7.4 per cent to 92.6 per cent). This hampers operationalization of the Water Act 2016, monitoring implementation of capital projects, and statutory implantation of subscriptions, which impact on budget absorption.
  - b) Non remittance of the A-in-A collected by Water Services Providers to water boards as per the new Water Act (2016) has negatively impacted the Water Service Boards' recurrent operational budget. This has left the Water Boards with pending Bills which they are unable to service.
  - c) Budget cuts and rationalization by the National Treasury experienced midstream the implementation period disorganizes the Ministry annual work plan and affects project implementation and realization of outputs.
  - d) The delay in timely release of exchequer by the National Treasury. This delays the implementation of projects and it is likely to result to accumulation of pending bills and escalation of the project cost.
  - e) The ceiling for the Donor funded projects are rigid and any growth has to be justified with the National Treasury. Thus any requests for additional funding takes long before approval resulting in delays in the implementation of projects.
  - f) The inadequate funding to cater for GoK counterpart and VAT for donor funded projects occasion's delays in project implementation especially on activities undertaken through GoK budget component.

8. Emerging Issues in the sector included:

- a) Water Services Board A-in-A Budget: The Water Act (2016) repealed the requirements of the Water Service Providers to remit the revenue collected from water sales in the support of the Water Services Board recurrent budget. This in effect has created a budget gap of Kshs1,562 billion in the WSB's recurrent budget.
- b) Water Act 2016: Full operationalization of the Water Act 2016 will pose major reorganization in the water sector that will require additional financial resources for proper implementation.
- c) Trans-county water resources conflicts: Tran's country conflict on water resources are hindering deliver of water resources development.
- d) Increase incidences of court litigation in the water project necessitating lengthy resolution.

**2.2 Meeting with the Ministry of Environment and Forestry**

The Principal Secretary, Ministry of Environment and Forestry, Ms. Susan Mochache, CBS appeared before the Committee on Saturday, 25<sup>th</sup> August, 2018 and informed it that:

1. Ministry of Environment and Forestry was running the following programs:

- a) Environment Management and Protection;
- b) Meteorological Services;
- c) Forests and Water Towers Conservation and Management;
- d) Directorate of resource survey and remote sensing;
- e) General Administration, Planning and Support Services

2. The major achievements in the F/Y 2018/2018 include:

**i) KEFRI**

- a) Developed 17 Forest Research Technologies against a target of 21;
- b) Produced 12,180 Kg of tree seed against a target of 9,800kg
- c) Established 27 ha of seed sources against a target of 35 ha
- d) Constructed 5 seed processing units against a target of 8
- e) Developed technological improvement of 2 drought tolerant commercial tree species against a target of 2 (Melia volkensi and Acacia tortilis);

**ii) KFS**

- a) Attained a forest cover at 7.24% of total land area

- b) Produced 127 million tree seedlings
- c) Protected 772,805 ha for rehabilitation of degraded natural forest
- d) Established 7,688 ha of forest plantation
- e) Facilitated establishment of 6,808 ha of commercial forest on farmlands
- f) Improved 689 km of forest roads through gravelling and light grading
- g) Implemented System for Land Based Emission Estimation (SLEEK) in Kenya through development of 30 Wall to Wall Daily Climate Grids against a target of 30;

**iii) NEMA**

- a) 4,560 licenses issued as per regulations on EIA, Effluent Discharge, waste, Registration of EIA/EA Experts, ODS and Air quality regulations,
- b) Supported 6 green growth applied research projects,
- c) Established the status of waste management and pollution levels and developed actions plans for five (5) towns namely Mombasa, Thika, Nakuru, Eldoret and Kisumu

**iv) KWTA**

- a) Three Community schools supported on Climate Change adaptation,
- b) Three critical catchment, within water towers ecosystems secured,
- c) Developed 3 nature based enterprises,
- d) 3 water towers assessed/ Total Economic Valuation,
- e) Rehabilitated 150Ha of water tower in (Taita, Ngong, Enoosupukia)

**v) NETFUND**

- a) Research on mango value added products and off grid energy done; 1 publication on off grid energy done,
- b) 20 Million was mobilized for capacity building,
- c) 23 Counties capacity build on the mainstreaming renewable energy for household cooking and lighting in their CIDPs

**vi) HEADQUARTERS**

- a) Implemented plastic ban regulation all over the country
- b) National Environment Policy, Wetland Policy and climate change policy
- c) Rehabilitated 120 km of riparian in urban areas of Nairobi, Baringo, Uasin Gishu, Busia, Kisumu, Kisii, Migori, Nyeri, Laikipia and Kilifi;
- d) Three Sewerage facilities completed in Kisumu, Homabay and Bomet

- e) Installed six (6) seismic systems in Kibwezi, Lodwar, Voi, Nakuru, Kakamega, and Isiolo
- f) Three (3) airport weather observing systems installed in Eldoret, Kisumu and JKIA.
- g) Installed two (2) hydrogen generators at Lodwar and Garisa Upper Station.

3. Summary of allocation and expenditure for FY 2017/18 was as follows:

**a) Recurrent**

	<b>Allocation(m) 2017/18</b>	<b>expenditure(m) 2017/18</b>	<b>Unspent Balance (m)</b>	<b>% absorption</b>
<b>Personnel Emoluments</b>	<b>1,335</b>	<b>1,334</b>	<b>1</b>	<b>100</b>
<b>Operations and Maintenance</b>	<b>1,381</b>	<b>972</b>	<b>409</b>	<b>70</b>
<b>Transfers to SAGAS</b>	<b>13,636</b>	<b>12,628</b>	<b>1,008</b>	<b>93</b>
	<b>16,352</b>	<b>13,962</b>	<b>2,390</b>	<b>85</b>

**b) Development**

	<b>Alloc (m) 2017/18</b>	<b>Expend (m) 2017/18</b>	<b>Unspent balance (m)</b>	<b>% absorption</b>
<b>Gok</b>	<b>4,717</b>	<b>3,141</b>	<b>1,576</b>	<b>67</b>
<b>Donor</b>	<b>3,401</b>	<b>3,114</b>	<b>287</b>	<b>92</b>

<b>Gross</b>	<b>8,118</b>	<b>6,255</b>	<b>1,863</b>	<b>77</b>
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4. Implementation Challenges included:

- a) **Pending Bills** - There were historical pending bills amounting to Ksh. 184,983,030 and pending bills for the 2017/18 F/Y amounting to Ksh. 788,756,753. The total pending bills therefore stood at Ksh. 973,739,783. The pending bills were incurred at the headquarters and at the Meteorological Department.

The Ministry had constituted an adhoc committee to verify the pending bills as it sought to source for funds to clear them.

- b) **Rent** - The Ministry had an additional rental need of **Ksh 56m** because of the new departments (Forest conservation &DRSRS) which were moved to the Ministry by the executive order No.1/2018 and had not been factored in the 2018/19 budget.
- c) **Subscriptions to international organizations** - The Ministry has arrears of subscriptions to international organizations (both ministry headquarters and SAGAS) totaling to **Ksh 84m**. This includes **Ksh 23m** for CoP 9 conference which will be held between 30<sup>th</sup> - 31<sup>st</sup> August 2018.

The Ministry has obligations to host/attend several international conferences and meetings, at a projected cost of **Kshs 148m** in the FY 2018/19 and does not have a budget for the conferences due to budget ceilings. However, we are engaging Treasury to able to finance the conferences

- d) **Staff establishment** - The Ministry has serious succession management issues. Senior management staff have exited the service upon retirement and have not been replaced. The ministry has made requests to the National Treasury to allow the Ministry to fill the various positions.
- e) **Budget cuts**: The ministry experienced severe budget cuts of up to 75% in the financial year 2017/18 which affected achievement of ministry's objectives.
- f) **Lack of exchequer releases** - During the last quarter of financial year 2017/18, the ministry did not receive exchequer totalling to **Kshs 400m** thus leading to pending bills.
- g) **Conservation and forestry** - Lack of funds to Implement the presidential directive on fast tracking the realization of the 10% tree cover by 2022 instead of 2030,

Lack of funds to implement the task force recommendation on logging and harvesting in public and community forests,

Unavailability of funds to rehabilitate the repossessed forest land in Mau, Mt Elgon, Cheranganyi and Chepyuk areas,

There is no budget to manage the newly gazetted forest areas in different parts of the country,

The department is unable to achieve its 2.5billion revenue/AIA target in 2018/19 budget due to the logging ban.

### 2.3 Meeting with the State Department for Mining

The Principal Secretary, State Department of Mining, Mr. John M. Omenge, appeared before the Committee on Saturday, 25<sup>th</sup> August, 2018 and stated that:

1. The Ministry of Mining approved draft budget for the Financial Year 2017/18 was **Kshs 2,720,785,646** which was further reduced to **Kshs 1,618,415,691** in the Supplementary Estimates No I and a slight increase to **Kshs 1,760,377,850** in the Supplementary Estimates No II of the Financial Year 2017/18.
2. The **Reduction** focussed on Capital projects and acquisitions of specialised equipment in the Development Vote and other recurrent expenses (operations & maintenance costs) in the recurrent vote.
3. The **Increase** in the Recurrent vote in regards to Supplementary Estimates No II was in respect to payment of Gratuity costs to the outgoing Cabinet Secretary & Principal Secretary together with the Nine (9) mineral experts under the Mineral Promotion and Value Addition Directorate; Legal dues (**Kshs 100 Million Cortec**) and Compensation costs to the Land Settlers at the Kenya Fluorspar Company catchment area in Kimwarer, Kerio Valley in Elgeyo- Marakwet County (**Kshs 270 Million**).
4. The **Appropriation in Aid (A.I.A)** is derived from Laboratory fees, Inspection fees and Explosives Licensing totalling **Kshs 12,000,000** in the Mines and Geology Department, and a further **Kshs 2,000,000** from Outdoor advertising billboard, sale of publications and annual canteen rent from the Department of Resource Surveys and Remote Sensing.
5. The overall budget absorption for the Ministry as at 30<sup>th</sup> June 2018 is **99%** with a budget utilization of **Kshs 1,700,403,245** in both the Recurrent and Development vote, out of an allocation of **Kshs 1,724,056,421** from the Exchequer (G.O.K).
6. Recurrent vote utilization rate as per the economic items at 30<sup>th</sup> June 2018 was 98% as stated below:

<b>Economic Item</b>	<b>2017/18 Allocation</b>	<b>Cumulative Expenditure (30-6-2018)</b>	<b>Remarks</b>
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<b>Economic Item</b>	<b>2017/18 Allocation</b>	<b>Cumulative Expenditure (30-6-2018)</b>	<b>Remarks</b>
2110100- Personnel Emoluments (salaries)	451,983,607	449,271,916	Includes the Financial Year 2017/18 salaries and allowances payments for 12 months.
2210300- Domestic travel costs	20,417,386	18,357,620	Funds are for Domestic travel related costs
2210400- Foreign Travel Costs	2,987,658	2,863,870	Funds are for Foreign travel related costs
2210700- Training Expenses	19,227,322	17,606,720	Funds are for capacity building and promotional courses costs
2210900- Aircraft Insurance	19,968,498	19,927,574	Funds are for Insurance premiums for survey aircraft
2211000- Specialized materials	13,824,924	11,929,274	Funds are for specialised Lab supplies for mines and Geology Department
2211100- Office General Supplies	20,008,298	19,857,680	Funds are for General office supplies and stationaries
2211200- Fuel oil & lubricants	26,507,617	23,907,775	Funds are for Aircraft and Motor Vehicles
2211308- Legal fees, arbitration & compensation costs	613,000,000	612,745,449	Legal payment to CORTEC case (345,600,000) and KFC Kerio Valley related costs
2211310 – Contracted Professional Services	45,368,442	45,277,773	Payment to various professional services (Review of 21 Mining regulations)
2211311 – Contracted Technical Services	150,000,000	147,250,671	Funds for the Inter-Ministerial committee for the K.F.C Kerio Valley Land Verification committee
2211320 – Temporary Committee Expenses	38,146,875	38,146,875	Funds for temporary committee related expenses eg Quarry task force

<b>Economic Item</b>	<b>2017/18 Allocation</b>	<b>Cumulative Expenditure (30-6-2018)</b>	<b>Remarks</b>
2620100- Membership fees & subscriptions to international orgs.	20,000,000	20,000,000	Subscription fees to be paid to (AMGC & RCMRD) International Organisations for the 2017/18.
2710100- Social security benefits (Gratuity)	42,655,038	35,904,200	Gratuity payments to former Cabinet Secretary and contractual staff.
2210201- Telephone, mobile services	3,527,566	3,420,000	Funds for Mobile phone and airtime costs
2211300- Other operating expenses	50,686,395	48,189,053	Funds for other recurrent costs.
<b>Grand Total</b>	<b>1,538,309,626</b>	<b>1,514,656,450</b>	

7. Development vote utilization rate as per the economic items at 30<sup>th</sup> June 2018 is at 100% as stated below:

<b>Economic Item</b>	<b>2017/18 Allocation</b>	<b>Cumulative Expenditure (30-06-2018)</b>	<b>Remarks</b>
3110302- Refurbishment of Buildings (Civil Works)	8,845,300	8,950,000	Over absorption due to Budget cuts (Suppl: II) effected after funds have been committed
3110202- Construction of Buildings (Non Residential)	6,136,170	5,467,058	Capital funds for civil works.
2220200- Routine Maintenance Other assets (Aircraft Overhaul)	3,879,090	3,733,292	Capital funds for survey aircraft Maintenance.
3111111- Purchase of ICT equipment	7,246,373	9,979,679	Over absorption due to Budget cuts (Suppl: II)

			effected after funds have been committed.
3111112- Purchase of Software	14,966,821	14,966,821	Capital funds for procurement of software.
3110701- Purchase of Motor Vehicles	13,310,000	13,285,327	Capital funds to procure project vehicles
3111100- Purchase of Specialized equipment & machinery	64,250,665	63,465,448	Capital funds to procure Geological and Laboratory equipment.
3111403- Research (other development expenses)	67,112,376	65,899,170	Funds for Geo-exploration and Mineral deposit surveys.
<b>Grand Total</b>	<b>185,746,795</b>	<b>185,746,795</b>	

8. The other budgetary challenges in both the Recurrent and Development budget include the following:
- Late activation of the IFMIS system in respect to the F.Y 2017/18 i.e mid-September 2017.
  - Delays in approval and uploading of the 2017/18 Development budget in the IFMIS System as well as other systemic challenges e.g definition of the e-procurement end users in the IFMIS system.
  - Unpredictability of budget estimates e.g budget cuts in supplementary estimates including austerity measures.
  - Late submissions/delivery of invoices by the suppliers and merchants by which time Supplementary I and II budget cuts had been effected.
  - Delay in release of exchequer (liquidity)
9. The pending bills incurred as at 30<sup>th</sup> June 2018 is **Kshs 146,602,402** arising out of budgetary cuts in Supplementary Estimates (Austerity measures of 75%) and late delivery of invoices by suppliers especially in the 4<sup>th</sup> Quarter of the Financial Year 2017/18.

<b>Vote</b>	<b>Amount</b>	<b>Description</b>
Recurrent	88,347,197	Recurrent vote Pending bill occasioned by non-payment of general office supplies and other goods and services
Development	58,255,205	Development vote Pending bill occasioned by non-payment of specialized equipment & machinery (Laboratory and Survey equipment)

10. Most of the targets agreed in the Financial Year 2017/18 have not been achieved due to budget rationalisation and austerity measures as well as none release of exchequer on

time which negatively affected expenditure. The following activities were therefore not carried out:

- a) The National Airborne Geophysical Survey
- b) Acquisition of specialised survey and Laboratory equipment for the Geological survey, Mines Inspectorate and Mineral Audit.
- c) Capacity enhancement eg training of Technical staff as well as promotional and supervisory trainings.
- d) Overhaul of the resource survey aircrafts and acquisition of field based operation vehicles.
- e) Geo- exploration of coal and iron ore in Tharaka Nithi, Kwale and Kilifi Counties.

#### **2.4 Meeting with the State Department for Wildlife**

The Principal Secretary, State Department of Wildlife, Dr. Margaret Mwakima appeared before the Committee on Sunday, 25<sup>th</sup> August, 2018 and informed it that:

The Principal Secretary, State Department of Wildlife appeared before the Committee and informed it that:

1. The State Department for Wildlife was anchored under Vote 1106- State Department for Natural Resources in the FY 2017/18
2. State Department for Natural Resources was comprised of Directorate of Wildlife Conservation and Directorate of Forest Conservation. The budget presented herein excludes Forest Conservation Department which is currently domiciled under Ministry of Environment and Forestry.
3. KWS was the only Semi Autonomous Government Agencies-SAGAS under the state department. However, the State Department collaborates with Wildlife Clubs of Kenya as per executive order No.1/2018.
4. The total budget estimates for the half year was as shown below:

<b>Vote</b>	<b>Printed Estimates 2017/18</b>	<b>Supplementary II Estimates 2017/18</b>	<b>2<sup>nd</sup> Half Budget</b>	<b>2<sup>nd</sup> Half Expenditure</b>	<b>Cumulative Expenditure as at 30<sup>th</sup> June, 2018</b>	<b>Absorption rate</b>
Recurrent	6,502	6,289	3,270	3,208	6,194	98.5%

Development	825	950	599	455	780	82.1%
<b>Total</b>	<b>7,327</b>	<b>7,239</b>	<b>3,869</b>	<b>3,663</b>	<b>6,974</b>	<b>96.3%</b>

5. The Recurrent Budget FY 2017/18 (Ksh. Millions) was:

<b>Economic classification</b>	<b>Printed estimates</b>	<b>Supplementary II Estimates</b>	<b>2<sup>nd</sup> Half budget</b>	<b>2<sup>nd</sup> half expenditure</b>	<b>Cumulative Expenditure FY 2017/18</b>	<b>Absorption rate</b>
<b>Gross</b>	<b>6,502</b>	<b>6,289</b>	<b>3,270</b>	<b>3,208</b>	<b>6,194</b>	<b>98.5%</b>
Appropriations in Aid (A-i-A)	3,034	3,363	1,846	1,846	3,363	100%
NET (GoK)	3,468	2,926	1,424	1,362	2,831	96.7%
Compensation to Employees	103	104	53	65	104	100%
Use of goods and Services	347	263	168	165	238	90%
Compensation to HWC	612	153	0	0	153	100%
Transfers to SAGAS	5,440	5,769	3,049	2,979	5,699	98.7%

6. Taskforces funding in F/Y 2017/18 was:

<b>Name</b>	<b>Supplementary II</b>	<b>Actual expenditure</b>
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Consumptive wildlife utilization	15,000,000	12,470,683
Task force on African Court-Ogiek	15,000,000	0
Forest Resource Management and logging activities in Kenya	15,800,000	15,800,000
<b>TOTALS</b>	<b>45,800,000</b>	<b>28,270,683</b>

7. Actual Development Expenditure as at 30th June 2018 (Ksh. Millions)

Economic Classification	Printed estimates	Supplementary II estimates	2 <sup>nd</sup> Half Budget	2 <sup>nd</sup> half expenditure	Cumulative Expenditure FY 2017/18	Absorption rate
Capital Transfers	812.5	945.1	596	455	780	82.5%
Other Development	12.5	4.9	3	0	0	0%
<b>Totals</b>	<b>825</b>	<b>950</b>	<b>599</b>	<b>455</b>	<b>780</b>	<b>82.1%</b>

8. Critical items that were affected due to exchequer under issue include:

a) Subscription to International organizations

- UNEP, Marine turtle MOU Ksh. 226,710
- IUCN 2016 Ksh. 1,559,760
- IUCN 2017 Ksh. 7,848,288
- CITES Ksh. 220,261

b) Services rendered and goods delivered amounting to Ksh. 20,835,388

c) Besides that the State department has a historical pending bill of Ksh. 12,977,124 meant for refurbishment of NSSF building. This was occasioned by budget cuts.

9. Challenges in budget implementation included:

- a) Late and Inadequate release of exchequer
- b) Unfavorable weather conditions
- c) Austerity measures

- d) Growing operations deficit for KWS - For the last six financial years Kenya Wildlife Service has been operating on a growing deficit from the FY 2012/13 to FY 2016/17. That is for the financial years 2012/13, 2013/14, 2014/15, 2015/16 and 2016/17, KWS operated in financial deficits of Ksh. 440 million, Ksh. 12 Million, Ksh. 356 million, Ksh. 573 million and Ksh. 1,538 million respectively. From this trend, it is evident that KWS is facing serious financial challenges, a situation that is not sustainable given the nature and demand of operation.

### **3.0 COMMITTEE OBSERVATIONS**

#### **3.1 General Observation**

The Committee made the following observations, that:

- iii. There were two supplementary budgets that were introduced in the course of the 2017/18 financial year with the first supplementary budget approved barely two months into the financial year. It was noted that most of the budget adjustments in the development budget were with respect to ongoing projects, some of which had contractual obligations that, if breached, would lead to payment of penalties as well as slowing down or even completely stalling these projects. Furthermore, disruption of expenditure allocations midway means that there may be deferred payments leading to pending bills at the end of the financial year. Pending bills, being priority payments in government spending, further reduce available development oriented resources while necessitating special audits within the year to ascertain their nature.
- iv. Performance Reporting- The financial reporting by the National Treasury seems to indicate the various spending agencies are performing well in terms of the absorption rates recorded. However, a critical component of measuring performance is whether the various targets set are being realized. Therefore the National Treasury and Controller of Budget (COB) should provide clear reporting on the status of various development projects being implemented and achievements made on each Programme outputs/ targets.

#### **3.1 Ministry of Water and sanitation**

- viii. The State Department for Water received over 90% of the exchequer for 2017/18 financial. This was an improvement from the previous financial years, however, the exchequer with respect to development projects was relatively lower at 90% release compared to recurrent which had 97% release.
- ix. The Regional Water Boards had a problem with loans guaranteed by the National Governments and were to be paid by the counties. It was also observed that only the County of Nyeri was servicing the loans guaranteed by the National Governments.
- x. The 2018 Executive Order moved the functions of Water Harvesting and Flood Control and Water for Schools from the State Department for Irrigation to the Ministry of Water and Sanitation. These functions moved with the resources for 2018/19 financial year.
- xi. The Umaa and Badasa dams were cumulatively estimated to cost about Kshs. 3.2 billion. The projects have stalled for a long time, thereby denying Kenyans the most needed water services.
- xii. There was ambiguity surrounding the tendering process of the Kakamega Bulk project. This had stalled and delayed the project implementation thereby denying water services to the people in that region.
- xiii. The Ministry of Water and Sanitation was in final stages of a draft policy formulation; however, there was no evaluation report of previous policies with a view to building on their achievements and mitigating challenges encountered in implementing them previously.
- xiv. There were a lot activities and encroachments in to upstream water catchment areas rendering previously permanent rivers into seasonal rivers with dire consequences on downstream water users.

### **3.2 Ministry of Environment and Forestry**

- iii. The Ministry had a cumulative pending bills amounting to **Kshs. 974 million** in the financial year 2017/18 which was as a result of non- release of exchequer and budget cuts through supplementary estimates. Therefore, Pending bills, being priority payments in government spending, further reduced available development oriented resources for the next Financial year
- iv. The Ministry had serious succession management issues since management staff had exited the service leadership vacuum. This was particularly the case at the Kenya Meteorological Department that had officers retiring without employing new one.



### **3.4 State Department for Mining**

- iii. There was serious underfunding towards the State Department for Mining which, as a result, failed to carry out the following activities;
  - d) National Airborne Geophysical Survey,
  - e) acquisition of specialized survey and laboratory equipment for the geological survey, mines inspectorate and mineral audit
  - f) overhaul of resource survey aircrafts and acquisition of field based operation vehicles
  
- iv. The National Airborne Geophysical Survey was being implemented through the Ministry of Interior and Coordination as part of the geospatial project. However, lack of input from the State Department for Mining could lead to the exercise not producing authentic and marketable data for the country's development.

#### **4.0 COMMITTEE RECOMMENDATIONS**

The Committee having deliberated with the ministries and state departments on the budget implementation for the third and fourth quarter of the FY 2017/2018 recommended as follows, that;

##### **4.1 General Recommendations**

- iii. There should be proper and objective revenue forecasting with realistic underlying assumptions to avoid adjustments to the budget which is often necessitated by the missing revenue targets.
- iv. It is critical for the National Treasury and the Controller of Budget (COB) to report on budget performance by including an independent assessment whether spending agencies are meeting the various targets set and status of the various ongoing projects. This will augment the existing financial reporting to effectively capture the various sectors performance.

##### **4.2 Specific Recommendations**

###### **4.2.1 Ministry of Water and Sanitation**

- e) The Ministry of Water and Sanitation in conjunction with the National Treasury should come up with clear policies and guidelines on the loans guaranteed by the National Governments which are to be paid by the counties.
- f) The Ministry of Water and Sanitation should provide the National Assembly with the detailed work plan on how on the projects to be implemented by the Water Boards through the Water for Schools programmes as envisaged in the New Executive Order of 2018.
- g) The Ministry of Water and Sanitation should initiate **special audit** of Umaa and Badasa dams projects and other such dams to assess their soundness so as to come up with a clear way forward that would fast-track water services to Kenyans.

- h) The Ministry of Water and Sanitation should resolve the ambiguity surrounding the tendering process of the Kakamega Bulk project to avoid unnecessary litigations that may delay the intended benefits from the project.

#### **4.2.2 Ministry of Environment and Forestry**

- c) The Ministry of Environment and Forestry must clear the cumulative pending bills amounting to **Kshs. 974 million** in the financial year 2017/18 in the new 2018/19 Financial Year as pending bills form first charge of the subsequent year's allocation.
- d) The Ministry of Environment and Forestry should engage the National Treasury for allocation funds to address succession management issues at the Kenya Meteorological Department so as to recruit new staff.

#### **4.2.3 State Department for Mining**

- c) The National Treasury should provide adequate funding to the State Department for Mining if indeed the country was serious about being industrialized by the year 2030.
- d) The Ministry of Interior and Coordination of Government should work closely with the State Department for Mining in the execution of the National Airborne Geophysical survey for the authenticity of the data.

#### **4.2.4 State Department for Wildlife**

The State Department for Wildlife must provide full disclosure on its budgetary status at all times.



**MINUTES OF THE 105<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES HELD ON FRIDAY 23<sup>RD</sup> NOVEMBER, 2018 AT 9.30 AM AT THE ENASHIPAI RESORT & SPA, NAIVASHA.**

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**PRESENT**

1. **The Hon. Kareke Mbiuki, M.P.**                      **Chairperson**
2. The Hon. Francis Chachu Ganya, M.P.
3. The Hon. Hilary Kiplang'at Kosgei, M.P.
4. The Hon. Charity Kathambi Chepkwony, M.P.
5. The Hon. Nasri Sahal Ibrahim, M.P.
6. The Hon. Hassan Oda Hulufu, M.P.
7. The Hon. (Eng.) Paul Musyimi Nzengu, M.P.
8. The Hon. Rozaah Buyu. M.P.

**APOLOGIES**

1. **The Hon. Sophia Abdi Noor, M.P.**                      **Vice Chairperson**
2. The Hon. Benjamin Jomo Washiali, M.P., CBS
3. The Hon. Beatrice Cheron Kones, M.P.
4. The Hon. David Kangogo Bowen, M.P.
5. The Hon. Ali Wario Guyo, M.P.
6. The Hon. Peter Kimari Kihara, M.P.
7. The Hon. Rehema Hassan, M.P.
8. The Hon. Benjamin Dalu Tayari, MP
9. The Hon. Amin Deddy Mohamed Ali, M.P.
10. The Hon. Said Hiribae, M.P.
11. The Hon. Charles Ong'ondo Were, M.P.

**IN ATTENDANCE**

**THE NATIONAL ASSEMBLY**

- |                       |   |                      |
|-----------------------|---|----------------------|
| 1. Ms. Esther Nginyo  | - | Clerk Assistant II   |
| 2. Mr. Dennis Mogare  | - | Clerk Assistant III  |
| 3. Mr. Peter Mwaura   | - | Legal Counsel        |
| 4. Mr. Stanley Lagat  | - | Serjeant-At-Arms II  |
| 5. Ms. Winnie Kulei   | - | Research Officer III |
| 6. Ms. Lydia Mwangi   | - | Secretary            |
| 7. Mr. Stephen Omunzi | - | Office Assistant     |

**AGENDA**

- i) Prayers

- ii) Confirmation of Minutes
- iii) Matters Arising
- iv) **Consideration and Adoption of a Report on the Budget Implementation for the Third and Fourth Quarter for the Financial Year 2017/18 for the: Ministry of Environment and Forestry, Ministry of Water and Sanitation, State Department for Wildlife and the State Department for Mining.**
- v) Any Other Business
- vi) Date of the next Sitting

**MIN.NO. DC/ENR/566/2018: - PRELIMINARIES**

The meeting was called to order at 10.25 a.m. after which prayers were said. The Chairperson then stated that the main agenda of the meeting was Consideration and Adoption of a Report on the Budget Implementation for the Third and Fourth Quarter for the Financial Year 2017/18 for the: Ministry of Environment and Forestry, Ministry of Water and Sanitation, State Department for Wildlife and the State Department for Mining.

The Members adopted the Agenda of the meeting.

**MIN.NO.DC/ENR/567/2018: - CONFIRMATION OF MINUTES**

Confirmation of minutes of the previous sitting was deferred to the next meeting.

**MIN.NO. DC/ENR/568/2018: - CONSIDERATION AND ADOPTION OF A REPORT ON THE BUDGET IMPLEMENTATION FOR THE THIRD AND FOURTH QUARTER FOR THE FINANCIAL YEAR 2017/18 FOR THE: MINISTRY OF ENVIRONMENT AND FORESTRY, MINISTRY OF WATER AND SANITATION, STATE DEPARTMENT FOR WILDLIFE AND THE STATE DEPARTMENT FOR MINING.**

The Report on the Budget Implementation for the Third and Fourth Quarter for the Financial Year 2017/18 for the: Ministry of Environment and Forestry, Ministry of Water and Sanitation, State Department for Wildlife and the State Department for Mining was considered and subsequently adopted after being proposed and seconded by Hon. Hassan Oda Hulufu, M.P and Hon. Nasri Sahal Ibrahim, M.P. respectively.

The report was adopted with the following recommendations:

## 1. General Recommendations

- i. There should be proper and objective revenue forecasting with realistic underlying assumptions to avoid adjustments to the budget which is often necessitated by the missing revenue targets.
- ii. It is critical for the National Treasury and the Controller of Budget (COB) to report on budget performance by including an independent assessment whether spending agencies are meeting the various targets set and status of the various ongoing projects. This will augment the existing financial reporting to effectively capture the various sectors performance.

## 2. Specific Recommendations

### Ministry of Water and Sanitation

- a) The Ministry of Water and Sanitation in conjunction with the National Treasury should come up with clear policies and guidelines on the loans guaranteed by the National Governments which are to be paid by the counties.
- b) The Ministry of Water and Sanitation should provide the National Assembly with the detailed work plan on how on the projects to be implemented by the Water Boards through the Water for Schools programmes as envisaged in the New Executive Order of 2018.
- c) The Ministry of Water and Sanitation should initiate **special audit** of Umaa and Badasa dams projects and other such dams to assess their soundness so as to come up with a clear way forward that would fast-track water services to Kenyans.
- d) The Ministry of Water and Sanitation should resolve the ambiguity surrounding the tendering process of the Kakamega Bulk project to avoid unnecessary litigations that may delay the intended benefits from the project.

### Ministry of Environment and Forestry

- a) The Ministry of Environment and Forestry must clear the cumulative pending bills amounting to **Kshs. 974 million** in the financial year 2017/18 in the new 2018/19 Financial Year as pending bills form first charge of the subsequent year's allocation.
- b) The Ministry of Environment and Forestry should engage the National Treasury for allocation funds to address succession management issues at the Kenya Meteorological Department so as to recruit new staff.

**State Department for Mining**

- a) The National Treasury should provide adequate funding to the State Department for Mining if indeed the country was serious about being industrialized by the year 2030.
- b) The Ministry of Interior and Coordination of Government should work closely with the State Department for Mining in the execution of the National Airborne Geophysical survey for the authenticity of the data.

**State Department for Wildlife**

The State Department for Wildlife must provide full disclosure on its budgetary status at all times.

**MIN.NO. DC/ENR/569/2018:** - **ADJOURNMENT**

There being no other business the meeting was adjourned at 12.45 pm.

SIGNED: ..... 

**THE HON. KAREKE MBIUKI, M.P.**  
**CHAIRPERSON,**  
**DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES**

DATE: ..... 28/11/2018 .....