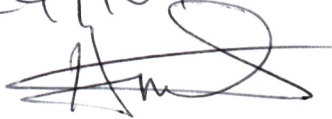


REPUBLIC OF KENYA



KENYA NATIONAL ASSEMBLY

Paper laid to the
Table of the House
by the Chairperson
of the Departmental
Committee on
Environment &
Natural resources
on 24/10/2013


DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL
RESOURCES

ELEVENTH PARLIAMENT-FIRST SESSION

REPORT

ON

THE CONSIDERATION OF THE WILDLIFE
CONSERVATION AND MANAGEMENT BILL, 2013

THE FOURTH REPORT OF THE FIRST SESSION, 2013



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1.0 Introduction

1.1 Committee Mandate and Membership

The Environment and Natural Resources Committee is a Departmental Committee 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 programme 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, assess and analyse 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.

Current Committee Membership

1. Hon. Amina Abdalla, M.P., **Chairperson**
2. Hon. A. K. Kosgey, M.P., **Vice Chairperson**
3. Hon. Alice Ng'ang'a, M.P.
4. Hon. Samuel Ndiritu, M.P.
5. Hon. Aisha Jumwa Karisa, M.P.
6. Hon. Ejidius Njogu Barua, M.P.
7. Hon. Jude Njomo, M.P.
8. Hon. Moitalel Ole Kenta, M.P.
9. Hon. Kathuri Murungi, M.P.
10. Hon. Sunjeev Birdi, M.P.
11. Hon. Jackson K. Rop, M.P.
12. Hon. Abdi Noor Ali, M.P.

13. Hon. Joyce Emanikor, M.P.
14. Hon. Abdulaziz Farah, M.P.
15. Hon. Ronald Tonui, M.P.
16. Hon. (Dr.) R. Wanyonyi, M.P.
17. Hon. Gideon Mwiti, M.P.
18. Hon. Hassan Dukicha, M.P.
19. Hon. Zainab Chidzuga, M.P.
20. Hon. Chachu Ganya, M.P.
21. Hon. Opiyo Wandayi, M.P.
22. Hon. Charles G Mongare, M.P.
23. Hon. (Dr.) Wilber Kottichilo, M.P.
24. Hon. Khatib Mwashetani, M.P.
25. Hon. George O.ogalo, M.P.
26. Hon. (Major) Muluvi Mutua, M.P.
27. Hon. Mohamed, Diriye M.P.
28. Hon, Peter Kinyua, MP.
29. Hon. Shukra Hussein Gure, M.P

1.2 Review Process for the Wildlife Conservation and Management Bill 2013

On Wednesday, 18 September, 2013, the Wildlife Conservation and Management Bill, 2013 was Read the First time and Committed to the Departmental Committee on Environment and Natural Resources for consideration pursuant to the provisions of the National Assembly Standing Orders No. 127(1). To clearly understand the underpinning policy behind the proposed Wildlife Bill, 2013, the Committee held a two-day retreat with the Ministry of Environment, Water and Natural Resources, The Kenya Wildlife Service and other agencies under the ministry at Travelers Beach

Hotel, Mombasa. The output of the retreat was an agreement between the committee and the ministry on the major policy grounding of the bill. This was after a clause by clause review of the bill.

In line with the constitutional requirement for public participation in legislative development the committee invited public input to the bill through a newspaper advertisement attached as annex 1 to the report. The committee received a total of seven written memorandum from wildlife stakeholders on different aspects of the bill. These stakeholders included The Kenya Wildlife Conservancies Association, The East African Wildlife Society, Vision 2050, Wildlife Direct, Walk With Rangers, KLCT, Kenyans United Against Poaching, Kenya Land Conservation Trust, Creel/Comesa, Narok Wildlife Conservancies Association, Taita/Taveta Wildlife Conservancies Association, Youth for Conservation, Africa Network for Animal Welfare, AET and individual members of the public.

The committee held a total of seven meetings which involved receiving stakeholders input and a clause by clause review of the bill. The minutes of these meetings are attached as annex 2 to this report.

1.3 Output of the Review Process

The review process concluded with a list of agreed amendments that the committee will be presenting to the house for consideration and possible adoption. In making its recommendations, the Committee examined the Bill clause by clause. Where objections were registered with respect to a particular clause in the Bill, the Committee proposed Amendments by consensus using the available information and

triangulating different sources of submissions made on the provisions of the clause to be amended. Annex 3 of the bill provides the proposed amendment to the bill that the committee intends to move at the third reading of the bill.

2.0 The Wildlife Conservation and Management Bill, 2013

2.1 Rationale for Review of Wildlife Legislative Architecture

Kenya is rich in natural resources, including a vast array of wildlife. Because of its species' richness, endemism and ecosystem diversity, under the Convention on Biological Diversity Kenya is categorized as a mega-diverse country. Kenya's wildlife is one of the richest and most diversified in Africa with several of its protected areas and wetlands being internationally recognized and protected as World Heritage Sites, RAMSAR sites and Man and Biosphere Reserves. Kenya's wildlife resource also constitutes a unique natural heritage that is of great importance both nationally and globally. Wildlife resources contribute directly and indirectly to the local and national economy through revenue generation and wealth creation. For example, in the year ending 30th June 2011, wildlife accounted for 70% of the gross tourism earnings, 25% of the Gross Domestic Product (GDP) and more than 10% of total formal sector employment. In addition, wildlife resources provide important environmental goods and services for the livelihood of the people and productive sectors.

Wildlife also plays critical ecological functions that are important for the interconnected web of life supporting systems. Significantly, Kenya's major water towers are found in wildlife-protected areas. Kenya's wildlife is increasingly under threat and consequently opportunities are being lost for it to positively contribute to economic growth, wealth creation and increased employment. Much of this wildlife occurs outside the protected areas on lands owned by communities and other different organizations or persons. So far, and because of issues of management, communities consider the presence of wildlife on their land as a burden rather than an opportunity for gaining benefits¹.

The Wildlife sector has been bedeviled by numerous challenges that require dynamic legislative architecture to address them. The sector faces marked decline in the number of wildlife and loss of biodiversity, Increased and persistent poaching including the new forms of bio-piracy and bio-prospecting, destruction and pollution of wildlife habitats, increased human-wildlife conflict and inadequate compensation for the affected, rigid institutional governance framework that has not integrated various stakeholders in the Wildlife Conservation and Management, the changing land tenure and land use in wildlife rangelands, low penalties for wildlife offenders, inaccurate scientific data on Wildlife, Climate Change, insecurity among others.

In the face of the existing and emerging challenges the current legislation-The wildlife Conservation and Management Act (CAP 376 enacted in 1975) was found inadequate to address these challenges and their complexities. The Wildlife Conservation and Management Bill, 2013 seeks to replace the existing Wildlife Conservation and Management Act of 1975 in order to address the challenges in the sector in a robust and responsive manner. It is further noted that the new constitution in the fourth schedule clearly provides that protection of the environment including wildlife is a national government function. The devolved government structures in the constitution provided additional challenges that needed incorporation in the new legislative infrastructure.

2.2 Legislative Development and Review Process for the 2013 bill

According to the Ministry and other stakeholders in the Wildlife Sector, the process of reforming the Conservation and Management of the Wildlife sector in Kenya started way before 2006 but gathered momentum after the promulgation of the

constitution in 2010. The Ministry established a technical committee in 2010 to address weaknesses in the original Bill and to harmonize it with the Constitution. In August 2011, a draft was presented to a national stakeholders' workshop which was attended by more than 200 participants. The final draft of the Bill was completed in April 2012.

The Cabinet then reviewed and approved the bill for publication. The Bill was published in the Kenya Gazette on 22 July, 2013 under the name of the leader of majority Hon Aden Duale. Upon publication some of the stakeholders complained that the bill was substantially different from what the stakeholders had agreed to at their meeting. To address these complaints the committee choose to engage the Ministry of Environment, Water and Natural Resources, The Kenya Wildlife Service and other agencies under the ministry to a two day retreat at Travelers Beach Hotel, Mombasa. The objective was to clearly understand the underpinning policy behind the proposed Wildlife Bill, 2013 and specifically the changes made by Cabinet. In this retreat the Ministry made a presentation on the over view of the Bill and the Members of the Committee together with the Ministry officials went through the Bill clause by clause. Several amendments and improvements were suggested during this retreat, some of which the committee has agreed to propose for amendments.

On 18 September, 2013 the bill was tabled in the National Assembly and read a first time. In line with National Assembly standing orders Parliament advertised for stakeholder input to the bill. The committee received seven written memorandum from different stakeholders. The committee held a total of seven meetings with two of the meetings involving members of the public. The meetings that took place on 18 July 2013, 23 July 2013, 30 July 2013, and 30 September 2013, were

closed door meetings on the contents of the Bill and made in-depth analysis of each provision.

On 1 October 2013 and 4 October 2013; The Committee met with the following stakeholders and members of the public:- The Kenya Wildlife Conservancies Association, The East African Wildlife Society, Vision 2050, Wildlife Direct, Walk With Rangers, KLCT, Kenyans United Against Poaching, Kenya Land Conservation Trust, Creel/Comesa, Narok Wildlife Conservancies Association, Taita/Taveta Wildlife Conservancies Association, Youth for Conservation, Africa Network for Animal Welfare, AET and individual Members of the Public.

2.3 Public Input to the Bill

This section of the report contains the summary of the deliberations by committee on the Bill taking into account submissions made by stakeholders and recommendations for amendments arising from these deliberations and submissions on the Bill. The different stakeholders hailed the content of the Bill as progressive and positive improvement from previous laws and described the spirit of the bill as very encouraging. They identified themselves with many sections of the Bill and accepted that it captures the aspirations of the Kenyan people, specifically communities living with wildlife by incorporating all stakeholders' inputs into the conservation and management of Wildlife. They said that the Bill had the potential to transform the protection, conservation and management of Wildlife and secure wildlife as a strategic and economic asset for the prosperity of the Kenyan People. They were also in agreement that the proposed Wildlife Conservation and Management Bill, 2013 required further amendments on certain sections. They presented memoranda and made verbal submissions to that effect.

The East Africa Wildlife Society, WildlifeDirect, Vision 2050, under the umbrella of the Kenya Wildlife Conservancies Association submitted a 13- point proposal for amendments in various provisions of the Bill. In particular they were concerned about the duplication of roles of various institutions the Bill was proposing to establish such as the Conservation Directorate and the Regulatory Council whose proposed functions were already domiciled in the Ministry and Kenya Wildlife Service respectively. They were also concerned about the downgrading of the wording in the benefit sharing clauses from the original text and submitted that texts in regard to research, information and monitoring should be reconsidered in the Bill. They made numerous other proposals that they noted could enhance the efficiency of the legislation. The Committee agreed to scrutinize the document they presented.

The Kenya United Against Poaching, Walk With Rangers and Africa Network for Animal Welfare wanted the clause dealing with consumptive utilization of wildlife resources such as culling and cropping be entirely deleted from the Bill. They argued that, at the current situation in the wildlife numbers the Country does not have enough numbers of Wildlife for these provisions to be legislated. They also cited the fact that the National Parks and Reserves in the Country are not fenced allowing free mobility of the Wildlife from one area to another. This they said downgraded the argument for carrying capacity as an excuse to introduce these clauses. They informed the Committee that the local communities are against culling and cropping and do not see it as conservation and management tool. They expressed their fears that despite the bill proposing the banning of spot hunting; culling and cropping may re-introduce the same malice. They concluded that once legalized these provision will be abused and might be detrimental to the conservation efforts the Bill is proposing to enhance. They instead proposed game farming and translocation as alternative options

to culling and cropping and safe means to achieve a balance in the different Wildlife habitats and ecosystems.

CREEL/COMESA, represented by Dr. Wamukoya, made proposals to the Committee on introduction of the Wildlife Conservation and Management Strategy, Incentives and establishment of a Wildlife Research Institute. He also pointed out various sections of the Bill that needed cross referencing with the other existing laws.

Narok Wildlife Conservancies Association, Taita/Taveta Wildlife Conservancies Association, Youth for Conservation on their part hailed the provisions regarding compensation and formation of conservancies. They proposed the suggested figures for compensations to be enhanced and elaborate regulations be put in place for the actualization of the compensation process. They lauded many provisions of the Bill that recognizes the contribution of the communities to Wildlife Conservation.

Other stakeholders made presentations on clauses dealing with penalties. They were for the idea of increasing penalties for offences against endangered species, establishment of a forensic laboratory to enhance compliance, the DPP to be involved in prosecution of offenders and reduction of Schedule A animals so that more efforts can be put on absolutely critically endangered species. Many presenters also wanted the provision on Management plan amended to ensure violation of the management plans is not criminalized.

On their part the members of the Committee identified themselves with the sentiments of the stakeholders and thanked them for responding to the committee's invitation in large numbers and coming forth with valuable information that would help the committee make informed decision on the provisions of the Bill. They also



assured the members of the public and the stakeholders that their views shall be considered and their fears addressed amicably. The Committee also agreed with the Stakeholders that the Bill has indeed many positive and progressive provisions as compared to the current Wildlife Act.

3.0 Committee Observation and Recommendations

3.1 General Observations

In order to provide for the Protection, Conservation, Sustainable use and management of Wildlife in Kenya the Wildlife Conservation and Management Bill, 2013 is expected to address the major concerns in the Wildlife Sector. The Committee after deliberations and scrutiny of the Bill has come up with general categories that will guide specific amendments to the Bill. The committee observed that much of the deliberation focused on the desire to strengthen the bill into a dynamic piece of legislation fit for 21st Century Conservation and Management of Wildlife in the country. It was observed that the most amendment mainly focused on:

- A) Aligning the bill with constitutional provisions on the management of natural resources and specifically wildlife management
- B) Compliance: increasing compliance with wildlife conservation and management principles by all parties with the goal of curbing the poaching menace
- C) Reduction of Human-Wildlife Conflict: changes mainly focused on enhancing co-existence between wildlife and communities; and facilitating the sharing of benefits with host communities.
- D) Regulation: accepting the current regulatory mechanisms are not working but appreciating that extra institutions do not necessary improve regulatory regimes. Amendment are expected to tighten the regulatory mechanisms and do away with any lacuna in wildlife conservation and management principles
- E) Revenue Generation: changes aimed at increased revenue generation for the economic development of the country by securing the Parks and expected increase of tourists to the conservation areas

- F) Investment; Broaden the Investment in the Sector with proper regulations and certainty specifically to encourage private land owners to adopt wildlife conservation as a land use.
- G) Employment; It is expected that the enactment of the Bill will create a conducive environment for more jobs in the wildlife Sector

3.2 Specific Recommended Amendments for Consideration

Annex 3 to this report provides the detailed amendment that committee intends to propose to the house for amendment. The Committee would generally be proposing the re-organization of various sections of the Bill and sequence it as appropriate and recommend editing and correction of typographical errors that could alter the intended meaning of certain provisions. The Committee will further be proposing amendments in the following categories:

3.2.1 Alignment to the Constitution of Kenya 2010 and other existing laws

The fourth schedule of the constitution provides that the management of wildlife is a national government function which means that all devolved management activities in the sector must be paid for by the national government. The committee is proposing amendments which will clearly state that the payment of allowances to the County Conservation and Compensation Committees' members as well as compensation payment will be made by the national government.

The Committee also agreed to include provision for the establishment and management of National Reserves in the Bill in appreciating that most national reserves are found in community lands. It is important to note that without amendment to clause 109 to include National Reserves the new act will begin with

conflict between the national government and counties currently managing national reserves.

In addition to aligning the bill to the constitution amendments that provide cross-referencing of the bill with existing legislation are proposed. Finally the repealing of the Current Wildlife Conservation and Management Act CAP 376 of the laws of Kenya will not only be in line with the constitution but would take into account existing national legislation as well as international treaties and agreements that Kenya is signatory to.

3.2.2 Institutional Framework:

In order to establish a lean, responsive and integrated institutional governance structure, cognizant of the integrated nature of Wildlife conservation, the Committee Agreed to re-arrange the Institutional Framework proposed in the Bill as follows:-

- a) **Conservation Directorate:** The Committee proposes to delete the **Directorate** as the stated functions are traditionally what a ministry is responsible for. This proposed amendment will afford the ministry flexibility to establish administrative unit that will guide the conservation and management of wildlife without hindrance by a statutory provision.
- b) **Kenya Wildlife Service:** the committee is recommending to enhance and strengthen the functions of KWS in its core mandates with the exception of regulation that is now vested in the ministry and the CS. The Service will be given additional functions like issuing of permits, advising the cabinet Secretary on different wildlife users' categories, establishment of a forensic laboratory to

enhance compliance and monitoring and enforcement of the terms and conditions of licenses issued under this law.

In addition the Committee will be proposing an increase in the number of non-public officers in the Board of trustees and grant the position of the Vice of the Board to the non-Public Officers members of the Board of Trustees to safeguard communities' interest in conservation and management of Wildlife in the Country.

- c) **The Cabinet Secretary's** role in Conservation and Management of Wildlife will be strengthened. The Committee proposes that the Cabinet Secretary to be the final authority to grant wildlife user rights and receive regular reports from the service on the status of compliance with the regulations under this Law. The Committee proposes that **Wildlife Conservation and Management Strategy** be developed by the Cabinet Secretary as part of a management tool for the sector.
- d) **County Conservation and Compensation Committee:** The committee proposes the merger of the County Wildlife Conservation Committee and The Compensation Committee to establish **The County Wildlife Conservation and Compensation Committee** that will collapse all the functions under the two proposed Committee. To ensure budgetary allocations to the Service is utilized for conservation efforts the Committee agreed to have this Committee be entitled to only sitting allowances.
- e) **Wildlife Research and Training Institute:** In order to guide and inform the Science of Conservation and equip all those in the sector with the necessary skills and competencies in the Conservation and Management of Wildlife the

Committee proposes the establishment of a **Wildlife Research and Training Institute** in the Bill which will be an independent think tank to generate accurate scientific information and data on wildlife resources that is critical for informed decision making by the wildlife managers and other stakeholders. The Institute will be expected to have linkages with the academic and non-academic research institutions.

4.2.3 Regulatory Regime:

In order to streamline regulation of the sector and eliminate functional and institutional duplications and overlaps the Committee agreed to delete the proposed **Wildlife Regulatory Council** and apportion its functions to the Cabinet Secretary and the Service. The Committee has also agreed to establish Wildlife Conservation and Management Strategy under the Cabinet Secretary to inform the strategic direction of conservation and management of Wildlife in the Country. This is expected to grant the supervisory role of the sector to the Cabinet Secretary and further empower the Cabinet Secretary's role in regulation.

To tighten the regulatory mechanism further the Committee also agreed to subject certain important decisions in the sector to parliamentary approval such as the gazettelement and degazettelement of Wildlife protected areas, exchange of private land for Conservation, Mining of minerals and exploration of petroleum in wildlife protected areas both in land and water, ratification of international treaties, donation of Wildlife among others.

4.2.4 Compensation:

To tackle human-wildlife conflict and in furtherance of the spirit of mutual co-existence between communities and wildlife and encourage ownership of Wildlife

resources by Communities the Committee proposes to comprehensive and elaborate compensation process. The Wildlife Compensation scheme is to be managed by the ministry with the help of the County Conservation and Compensation Committees. This will allow the Service to focus on its core mandate of conservation and protection of Wildlife. In this regard the Committee proposes amendments that would empower the County Wildlife Conservation and Compensation Committee to receive and ascertain all claims for compensation at the County level and transmit to the ministry for consideration. The Cabinet Secretary will also be empowered to issue regulations that will guide the process. *The Committee in making these proposals considered the ability of the exchequer to meet the demands for compensation and the need to compensate those genuinely affected by Wildlife and has taken into account the various proposals presented by stakeholders. The monies for compensation will be paid from the compensation scheme.* The following was agreed on Compensation for injury or harm caused by Third Schedule Animals:-

- (a) Compensation for death be pegged at **KES 3 Million**
 - (b) compensation for Permanently disability be pegged at **KES 2 Million**
 - (c) Any other injury to be pegged at **KES 1 Million** depending on the extent of the injury
- AND
- (d) The Committee has also agreed to have persons who suffer damage to crops, livestock and properties compensated in an elaborate process.

4.2.5 Consumptive and Non-consumptive utilization of Wildlife Resources:

The Committee sought views from various stakeholders in reaching an agreement on Consumptive utilization of Wildlife Resources. The committee agreed to allow game farming and proposed an additional schedule of Animals and plants that would be allowed to be farmed and that those animals within a fenced ranch are in a farm. In furtherance of this incentive Committee agreed to allow cropping within the farmed animals with proper supervision and guidance by the Service. The Committee has agreed to allow Culling as a scientific tool of management of last resort. A proviso has been agreed to be incorporated in the Bill and stringent guidelines to be followed and any violation of the provision of the law will be expected to attract hefty penalties. Other consumptive utilization the Committee agreed to are:-game ranching, live capture and research for off-take and live sale

4.2.6 Offences and Penalties

To curb the upsurge in poaching and crimes related to wildlife, the Committee agreed with the proposal to completely ban spot hunting, trade in bush meat and subsistence hunting. The Committee agreed on hefty penalties for killing and dealing in trophies of endangered wildlife based on CITES categorizations:-

- (a) A fine of **Kes 20 Million or life imprisonment for Category A** species such as Elephant, rhino, Lions etc
- (b) A fine of **Kes 5 Million or imprisonment of a term of not less than 5 years** or both for Category B Species i.e different types of Birds.
- (c) A fine of **Kes 1 Million or imprisonment of a term of not less than 2 years** or both for Category C Species i.e reptiles

4.2.7 Drought and Famine:

The Committee agreed to empower the Cabinet Secretary to set regulations that will allow Pastoralist to temporarily graze their livestock in certain conservation areas during nationally declared drought to cushion them from losing their livestock and safeguard Kenyans livelihoods.

4.2.8 Incentives and Benefit sharing:

The Bill proposes a holistic approach to wildlife conservation and management where all stakeholders are consulted and benefits accruing from wildlife conservation and management is enjoyed and equitably shared by the people of Kenya. The Committee proposes incentives be provided in order to entice landowners and other interested parties to adopt wildlife management as a type of land-use. The Committee further removed the proposed imprisonment for those who violate management plans in non gazzeted wildlife protected area to make it less punitive for communities and private land owners who opt to conserve wildlife on their land. The bill also included provisions for the establishment of conservancies and sanctuaries by individuals.

4.2.9 Management Plans:

In order to ensure that Wildlife remain safe and protected in their own habitats the bill proposes an integrated management plan for wildlife conservation and management. These plans are to be developed in all wildlife conservation areas. The Bill seeks to enforce and monitor the Management plan by proposing penalties for violation of the plans especially in wildlife protected areas. As stated the option of imprisonment is removed for protected areas.

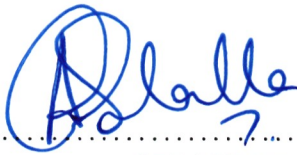


4.0 CONCLUSION

The Committee presents its report on the deliberations on the Wildlife Conservation and Management Bill, 2013 to the National Assembly for consideration and adoption while appreciating that quality and ownership of proposed legislation presented to the house needs improvement.

Thank You

SIGNED



CHAIRPERSON
(HON.AMINA ABDALLA, MP)

DATE

24/10/2013

COMMITTEE MINUTES

MINUTES OF THE 26th SITTING OF THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES HELD ON TUESDAY, JULY 30 2013 IN BOARD ROOM, NINETH FLOOR, HARAMBEE PLAZA AT 10.00 AM

PRESENT

1. Hon. Amina Abdalla, MP
2. Hon. Alexander Kosgey, MP
3. Hon. Khatib Abdallah Mwashetani, MP
4. Hon Aisha Katana, MP
5. Hon. Peter Kinyua, MP
6. Hon. Sunjeev Birdi, MP
7. Hon. Farah A. Ali, MP
8. Hon. Joyce Emanikor, MP
9. Hon. Moitalel Ole Kenta, MP
10. Hon. Major Muluvi Mutua, MP
11. Hon. Opiyo Wandayi, MP
12. Hon. Ejidius N. Barua, MP
13. Hon. Charles Geni Mong'are, MP
14. Hon. Diriye Abdullahi, MP
15. Hon. Zainab Chidzuga, MP
16. Hon. Dr. Ottichilo Wilber, MP
17. Hon. Chachu Ganya, MP
18. Hon. Kipkorir Rop, MP
19. Hon J. Njomo, MP
20. Hon. Kiprotich Tonui, MP
21. Hon. Alice Ng'ang'a, MP
22. Hon. Murungi Kathuri, MP
23. Hon. Dukicha Hassan, MP
24. Hon. Irea Gedion Mwitii, MP
25. Hon. Shukra Gure, MP
26. Hon (Dr.) Reginalda Wanyonyi, MP
27. Hon. Ndiritu Mathenge, MP

Chairperson
Vice Chairperson

*Proposed Name
Sent Ole Kenta*

ABSENT WITH APOLOGY

1. Hon. Ogalo Oner, MP
2. Hon. Abdinoor Ali, MP

IN-ATTENDANCE

NATIONAL ASSEMBLY

Rana Tiampati: Principal Clerk Assist & PA to the Clerk of the National Assembly

Johnston Kioko : Clerk Assistant

Ahmed H. Odhowa: Research Officer, ENR Committee.

Emmanuel Ogechi: Junior Legislative Fellow

The Agenda:-

- i. Prayers
- ii. Adoption of the Agenda
- iii. Confirmation of Minutes
- iv. Matters Arising
- v. Meeting the Cabinet Secretary of the Ministry of Environment, Water and Natural Resources over the Wildlife Conservation & Management Bill, 2013
- vi. Any other Business

MIN. NO. 0159/2013: INTRODUCTION

The Chair called at 10.10 am the meeting to order and asked the clerk Mr. Johnston Kioko to lead the Committee in a word of prayer.

After the prayers, the meeting started by introductions by Committee Members followed by the Ministry's team lead by the Cabinet Secretary, Prof. Judi Wakhungu, Principal Secretary Richard Lesiyampe, the Conservation Secretary, Mr. Gedion Gathara, the KWS Director, Mr. William Kiprono and other officers from Kenya Wildlife Service (KWS).

MIN.NO. 0160/2013: ADOPTION OF AGENDA

Members unanimously adopted the agenda of the day as proposed by Hon. Njogu Barua and seconded by Hon. Dr. Ottichilo.

MIN. NO. 0161/2013: CONFIRMATION OF MINUTES

The Chair deferred confirmation of Minutes to another date to give time adequate for the presentation by the Ministry.

MIN.NO. 0162/2013: MATTERS ARISING FROM MINUTES

There were no Matters Arising from the minutes.

MIN.NO. 0163/2013: MEETING THE CABINET SECRETARY OF THE MINISTRY OF ENVIRONMENT, WATER AND NATURAL RESOURCES OVER THE WILDLIFE CONSERVATION & MANAGEMENT BILL, 2013

The chair informed Members that the gist of the day's meeting was to receive briefs from the Ministry regarding the proposed Wildlife Conservation and Management Bill 2013. Later the Members would engage the Ministry officials on salient issues and concerns on some provisions of the Bill. She then invited the Conservation Secretary Mr. Gideon Gathara to make the presentations on behalf of the Ministry.

a) Brief on parts and merits of the Bill

During his presentation, Mr. Gathara took Members through the twelve (12) parts of the Bill explaining the broad aspects of each part.

In his closing remarks, Mr. Gathara described the Bill:

- As a timely, progressive and inclusive piece of legislation that is compliant with the Constitution and has undergone a rigorous consultation process during its development;
- That recognizes wildlife as a form of land use;
- With clear incentives and broadens investment in wildlife conservation and management;
- That has some key functions devolved to the Counties;
- With enhanced structures and institutional frameworks to ensure proper management and investment in wildlife sector;
- Containing proposed adequate and enforceable penalties for offences against wildlife conservation and management, among others.

b) Member's reactions and concerns on the provisions of the proposed Bill

On the reaction to the presentation by the Ministry, Members had the following concerns:-

- i. **Institutional framework**-Members felt that establishment of a Conservation Directorate replicates the Ministry's role; Wildlife Regulatory Council creates overlaps of roles with KWS and The County Wildlife Conservation and County Wildlife Compensation Committees' roles could result in duplication and unnecessary bureaucracy.
- ii. **Benefits and Incentives**- Members felt that the draft is unclear and may not convince the land owners of the economic viability of committing their lands to wildlife conservation;
- iii. **Conservancies**- There is lack of clarity in the establishment of conservancies and how they are to be managed. The penalties of contravening management plans are too punitive and a disincentive to establishment of a conservancy;

- iv. **Penalties related to hunting-** A provision should be made to protect indigenous hunters and gatherers-communities regarding consumptive utilization of wildlife resources. Penalties should also be differentiated according to the category of species;
- v. **Compensation-** Injuries should be categorized and upgraded for people who suffer lifelong injuries and incapacitation from attacks by animals. Compensation on human life is also low compared to the killing of an elephant;
- vi. **Definition of terms-** Terms like Conservation area, Easement, Wildlife Conservation Order, Park, Reserve, Consumptive use of wildlife resource, Ecosystem Management Plans need to be defined, among others.

c) Ministry's response and Observations

The Ministry had the following responses regarding the following issues raised by Members:-

- Establishment of Conservation Directorate was necessitated by frequent realignment of government departments and therefore a need to retain institutional memory. Creation of a Wildlife regulatory Council was to create a regulator and is also in line with separation of powers . The Ministry concurred with Members that County Compensation Committee could be a sub-committee of the County Wildlife Conservation Committee
- On benefits, KWS will liaise closely with conservancy owners and assist in the implementation of management plans
- Compensation rates could change and be determined by the County committees in consultation with KWS.
- On hunting, it was agreed that sport hunting to remain banned but consideration should be made on consumptive/ subsistence hunting by some indigenous groups as determined in the County committees.

d) Other Suggestions

In addition to matters provided for in the Bill the Principal Secretary, Mr. Lesiyampe also urged members to address the following three (3) items for definition and inclusion in the Bill:-

- Establishment of Wildlife development fund to assist communities and individuals to invest in the wildlife sector;
- Processing of and dealing in Bush Meat as a commercial activity;
- Increased research on matters of conservation and development and to provide for the establishment of a research institute on the same.

e) *The way Forward*

At the end of the session the Ministry and Members agreed that there is a need to arrange for the next workshop between Members and the Ministry to further interrogate the provisions of the proposed legislation and bring the Members knowledge at level as far as the Policy and Bill is concerned.

MIN. NO.0163/2013: ANY OTHER BUSINESS

The Chair informed members that the Ministry of Environment, Water and Natural Resources had organized a launch of National Atlas of Wetlands to be held at the Laico Regency Hotel the following day(31-07-2013) and had invited the Chair and two other members. Hon. Z. Chidzuga and Hon. Hassan Dukicha were nominated to accompany the Chair to the Launch.

MIN. NO.0164/2013: DATE OF NEXT MEETING

Members agreed to adjourn the meeting to convene again at 10.00 am on Thursday August 1 2013 at the same venue.

MIN. NO. 0165/2013: ADJOURNMENT

There being no other business the chair adjourned the meeting at 12.20 pm.

Signature.....

Date.....

Chairperson

MINUTES OF THE 37TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES HELD AT THE MEDIA CENTER, PARLIAMENT BUILDINGS ON TUESDAY SEPTEMBER 30, 2013 AT 2.30 PM

PRESENT

1. Hon. Amina Abdalla, MP
2. Hon. Farah A. Ali, MP
3. Hon. Ndiritu Mathenge, MP
4. Hon. Abdinoor Ali, MP
5. Hon. Shukra Gure, MP
6. Hon. Moitalel Ole Kenta MP
7. Hon. Abdulhahi Diriye MP
8. Hon. (Dr.) Reginalda Wanyonyi, MP
9. Hon. Geni Mongare MP
10. Hon. Chachu Ganya, MP
11. Hon. Marcus Muluvi MP
12. Hon. (Dr) Ottichilo Wilbur, MP
13. Hon. E. N. Barua, MP
14. Hon. Joyce Emanikor MP
15. Hon Aisha Katana, MP
16. Hon. Alice Ng'ang'a, MP

Chairperson

*Ole Kenta proposed
Muhuri*

ABSENT WITH APOLOGY

1. Hon. Oner Ogalo MP
2. Hon. Kaur S. Birdi MP
3. Hon. Jude Njomo MP
4. Hon. Khatib Mwashetani, MP
5. Hon. Gideon M. Irea MP
6. Hon. Dukicha Hassan, MP
7. Hon Alexander Kosgey MP
8. Hon. Murungi Kathuri, MP
9. Hon. Kiprotich Tonui, MP
10. Hon Zainab Chidzuga, MP
17. Hon. Kipkorir Rop, MP
18. Hon. Opiyo Wandayi MP
19. Hon. Peter Kinyua, MP
- 11.

Vice Chair Person

IN-ATTENDANCE

NATIONAL ASSEMBLY

Johnston Kioko : Clerk Assistant

Hassan Odhwa Research Officer:- ENR Committee

The Agenda:-

- i. Prayers
- ii. Adoption of the Agenda
- iii. Confirmation of Minutes
- iv. Matters Arising
- v. Consideration of Memoranda on Wildlife Conservation and Management Bill,
2013
- vi. Any other Business

MIN. NO. 0263/2013: PRELIMINARIES

The Chair called the meeting to order at 2.35 pm and asked the clerk to say the prayers.

MIN.NO. 0264/2013: ADOPTION OF AGENDA

Members unanimously adopted the agenda of the day as proposed by Hon. Ole Kenta and Hon. Chachu Ganya.

MIN. NO. 0265/2013: CONFIRMATION OF MINUTES

Member confirmed the Minutes of the 26/9/2013 meeting as proposed by Hon. Abdnoor Ali and Seconded by Hon. Shukra Gure

MIN.NO. 0266/2013: MATTERS ARISING FROM MINUTES

There were no Matters Arising from the minutes.

**MIN.NO. 0267/2013: CONSIDERATION OF THE MEMORANDA ON WIDLIFE
CONSERVATION AND MANAGEMENT BILL, 2013**

The Chair informed the Committee that September 30 2013 was the close of the seven days within which members of public had been given the opportunity to submit their memoranda on the above Bill. With the public presentation date set for the following day, Members resolved to nominate for invitation the following personalities to appear before the Committee meeting to be held the Media Centre on Tuesday October 1, 2013 Parliament Building at 10.00am:-

- i. Michael Gachanja from East Africa Wildlife society
- ii. Dickson Kaelo and Tom Lalampaa from Kenya Wildlife Conservancies Association
- iii. Jackson Mbuthia and Joseph Theuri from Vision 2050
- iv. Shamini Jayanathan from the British Council
- v. Elizabeth Gitari, Daniel Letureshi, Koikai Ole Tiptip. Samson Silantoi and Donald Mambo- all from Kenya Land Conservation Trust
- vi. George Wamukoya, Josephat Ngonyo, Salisha Sandra for CREEL/KUAPO.

The Secretariat was asked to avail enough copies of the respective memoranda to be used during the presentation.

MIN. NO. 0268/2013: ANY OTHER BUSINESS

There was no other Business.

MIN. NO.0269/2013: DATE OF NEXT MEETING

Members agreed to adjourn the meeting and to convene again at 10.00am on Tuesday, October 1 2013 to hear submissions by the invited persons regarding the Wildlife Conservation and Management Bill 2013

MIN. NO. 0270/2013: ADJOURNMENT

There being no other business the chair adjourned the meeting at 3.45 pm

Signature.....

Date...24/10/2013

Chairperson

MINUTES OF THE 38TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES HELD AT THE MEDIA CENTER, PARLIAMENT BUILDINGS ON TUESDAY OCTOBER 1, 2013 AT 10.0 AM

PRESENT

1. Hon. Amina Abdalla, MP
2. Hon Alexander Kosgey MP
3. Hon. Abdinoor Ali, MP
4. Hon. Shukra Gure, MP
5. Hon. Moitalel Ole Kenta MP
6. Hon. Abdulhahi Diriye MP
7. Hon. Geni Mongare MP
8. Hon. Chachu Ganya, MP
9. Hon. Murungi Kathuri, MP
10. Hon. Oner Ogalo MP
11. Hon. Kaur S. Birdi MP
12. Hon. (Dr.) Reginalda Wanyonyi, MP
13. Hon. E. N. Barua, MP
14. Hon. Marcus Muluvi MP
15. Hon. Opiyo Wandayi MP

Chairperson
Vice Chair Person

*Amina Abdalla
Kathuri Murungi*

ABSENT WITH APOLOGY

1. Hon. Jude Njomo MP
2. Hon. Khatib Mwashetani, MP
3. Hon. Gideon M. Irea MP
4. Hon. Dukicha Hassan, MP
5. Hon. Joyce Emanikor MP
6. Hon. Kiprotich Tonui, MP
7. Hon Zainab Chidzuga, MP
16. Hon. Kipkorir Rop, MP
17. Hon. Peter Kinyua, MP
18. Hon Aisha Katana, MP
19. Hon. Alice Ng'ang'a, MP
20. Hon. (Dr) Ottichilo Wilbur, MP
21. Hon. Farah A. Ali, MP
22. Hon. Ndiritu Mathenge, MP

IN-ATTENDANCE

NATIONAL ASSEMBLY

Hon. Patrick Ole Ntutu, MP

National Assembly

IN-ATTENDANCE

NATIONAL ASSEMBLY

Johnston Kioko : Clerk Assistant

Hassan Odhwa Research Officer:- ENR Committee

IN-ATTENDANCE

INVITED GUESTS

1. Michael Gachanja from East Africa Wildlife society
2. Dickson Kaelo and Tom Lalampaa from Kenya Wildlife Conservancies Association
3. Jackson Mbuthia and Joseph Theuri from Vision 2050
4. Shamini Jayanathan from the British Council
5. Elizabeth Gitari, Daniel Letureshi, Koikai Ole Tiptip. Samson Silantoi and Donald Mambo- all from Kenya Land Conservation Trust
6. George Wamukoya from CREEL
7. Nelson Wachira from KUAPO
8. Salisha Sandra from Walk With Rangers

The Agenda:-

- i. Prayers
- ii. Adoption of the Agenda
- iii. Confirmation of Minutes
- iv. Matters Arising
- v. **Public Hearing on Wildlife Conservation and Management Bill, 2013**
- vi. Any other Business

MIN. NO. 0271/2013: PRELIMINARIES

The Chair called the meeting to order at 10.00 pm and asked the clerk to say the prayers. She then called for a round of introductions of the Members and the invited guests

MIN.NO. 0272/2013: ADOPTION OF AGENDA

Members unanimously adopted the agenda of the day as proposed by Hon. Ole Kenta and Hon. Ogola Oner.

MIN. NO. 0273/2013: CONFIRMATION OF MINUTES

The Chair deferred confirmation of minutes to allow sufficient time the invited guests to indulge with the committee members.

MIN.NO. 0274/2013: MATTERS ARISING FROM MINUTES

There were no Matters Arising.

MIN.NO. 0275/2013: PRESENTATION OF THE INVITED GUESTS ON WIDLIFE
CONSERVATION AND MANAGEMENT BILL, 2013

The Chair invited guests to the session and informed them that the committee had perused through a number of memoranda submitted to it and found that most of the pertinent issues raised by them had been captured in the amendments jointly arrived at between the Ministry of Environment and Natural Resources and the Committee, during their earlier meetings. However, she invited the Committee's researcher, Mr. Hassan Odhwa first, to go through the suggested amendments and later give the guests an opportunity to air additional suggestions.

The chair also asked those with new or amended memoranda to introduce themselves and to forward their presentations to the Committee secretariat for evaluation and possible consideration during the report writing stage.

During the deliberations on the matter the following presentations were made:-

- Dickson Kaelo and Tom Lalampaa from Kenya Wildlife Conservancies Association were especially vocal on the issue of Compensation and penalties on Management plans.
- Elizabeth Gitari, Daniel Letureshi, Koikai Ole Tiptip. Samson Silantoi and Donald Mambo- all from Kenya Land Conservation Trust proposed among others, the rationalization of wildlife as a form of land use as proposed in the Bill.
- Jackson Mbuthia and Joseph Theuri from Vision 2050 proposed legalization on bird shooting as a form of tourism.
- Shamini Jayanathan from the British Council made her presentation on strengthening litigation and enforcement component of the Bill by categorization of felonies and misdemeanours.
- George Wamukoya observed that the Bill has no provisions for national Reserves and was not clear on how it interfaces with the National Treasury, National Defence, conservation and management of Wetlands and some of the provisions may be inconsistent with the EMCA Act.
- Nelson Wachira and Salisha Sandra for KUAPO were against cropping and culling of wildlife

After more than 2 hours of presentation by the invited guests, the Chair brought the session to an end and promised the participants that the Committee will take into consideration the views of all stakeholders in the report.

MIN. NO. 0276/2013: ANY OTHER BUSINESS

There was no other Business.

MIN. NO.0277/2013: DATE OF NEXT MEETING

Members agreed to adjourn the meeting and to convene on Thursday 3 October 2013 to prepare for the writing of Committee Report on the Wildlife Conservation and Management Bill 2013

MIN. NO. 0278/2013: ADJOURNMENT

There being no other business the chair adjourned the meeting at 1.05 pm

Signature..........

Date 24/10/2013.....

Chairperson

(c) Establish Forensic Lab

(d) Monitoring and compliance of licence terms and conditions

Under section 9 the following was agreed:-

Section 9: (2)(a) to delete "on the recommendation of the Public Service Commission so that it is in line with the current practice

Section 9: (2) (f) to add that the Vice Chair to be elected from among this group

Section 9: (2) f (ii) to delete this as members were not convinced of the role of the NGO

Section 9: 2)(iii) to amend this provision to read: "two representatives from community managed wildlife areas nominated by an umbrella wildlife conservancies body one from either gender".

Section 9: The position of Director was amended to Director to Director General and also in subsequent sections should be amended to reflect the change of the title

Section 9: The addition of provision to stagger the appointments of the Board Members so that the terms of the board member expire at different times for continuity and institutional memory.

Section 12(1): to add that no person shall be appointed as the Director General unless such person holds minimum qualifications of a post-graduate degree and at least 15 years experience in a relevant profession and meets the requirements of Chapter 6 of the Constitution."

C. PART III: FINANCIAL PROVISIONS

The following was agreed under this part:-

That the County Wildlife Conservation and Compensation Committees be paid a sitting allowance. This will be factored in the budget of the Service. The rates will be recommended by the Salaries and Remuneration Commission.

D. PART IV: THE WILDLIFE REGULATORY COUNCIL

In this Part Members agreed as follows:-

- The Committee agreed to delete the Council. It was noted that the functions of the Wildlife Regulatory Council (WRC) and the Service were duplicated it was thus agreed there is no need to have parallel institutions with similar functions. Some of the Functions were transferred to KWS while the granting of user rights was made a function of the Cabinet Secretary.

• This PART IV: was renamed as WILDLIFE REGULATORY MECHANISM

- Section 18 was deleted and replaced as : The National Wildlife Conservation and Management Strategy

- Sections 18- 23 were deleted

Section 1: To read: 2013 and coming to operation to have a specific date but not left to the

prerogative of the Cabinet Secretary (CS)

Section 2: To Add: and Kenya Territorial Waters

Section 3: Definitions

The Committee agreed that the following terms need to be defined in the Bill:-

▪ Accessibility

▪ Biological Resources

▪ Bio-prospecting

▪ Biopiracy- To be enhanced

▪ Conservation Area

▪ Culling: add in game farming

▪ Biotechnology

▪ Consumptive Utilization

▪ Indigenous species

▪ Protected Area

▪ Ministry

▪ National Park

▪ Weapons-in Relation to pastoralists

▪ Wildlife Conservation Area

▪ Wildlife- Definition not adequate

▪ National Reserve

▪ Active Management

Section 5: The Directorate be deleted- The directorate can be established administratively

Section 6: Be deleted and the functions be transferred to the Ministry

B: PART II: ESTABLISHMENT OF THE SERVICE

The Committee agreed on the following under Part II:-

Under Section 7: (1) to add: "uniformed and disciplined"- This will give the Service National security

privileges and entitlements

Under Section 8 to add the following additional functions to the Service:

(a) Identification and advising on user rights to Cabinet Secretary

(b) Granting of permits

- 2. Mr. H. Ogola: Legal Officer Kenya Wildlife Service
- 3. Rabiya Hawa : Walk With Rangers

The Agenda:-

- i. Prayers
- ii. Adoption of the Agenda
- iii. Confirmation of Minutes
- iv. Matters Arising
- v. Consideration of Amendments to the Wildlife Conservation and Management Bill, 2013
- vi. Any other Business

MIN. NO. 0279/2013: PRELIMINARIES

The Chair called the meeting to order at 9.00am and after the prayers invited members to the session.

MIN. NO. 0280/2013: ADOPTION OF AGENDA

Members unanimously adopted the agenda of the day as proposed by Hon. Ole Kenta and Hon.

Chachu Ganya..

MIN. NO. 0281/2013: CONFIRMATION OF MINUTES

The Chair deferred confirmation of minutes to give members sufficient time to go through the proposed amendments.

MIN. NO. 0282/2013: MATTERS ARISING FROM MINUTES

There were no Matters Arising.

MIN. NO. 0283/2013: CONSIDERATION OF AMENDMENTS TO THE WILDLIFE

CONSERVATION AND MANAGEMENT BILL, 2013

After a Clause-to-Clause consideration of the draft Bill against the proposed amendments the

members agreed to following changes:-

Title:

A. PART 1: Preliminary

PRESENT

1. Hon. Amina Abdalla, MP
2. Hon. Abdinoor Ali, MP
3. Hon. Shukra Gure, MP
4. Hon. Moitalel Ole Kenta MP
5. Hon. Abdulhahi Dirye MP
6. Hon. Geni Mongare MP
7. Hon. Chachu Ganya, MP
8. Hon. Muringi Kathuri, MP
9. Hon. (Dr.) Reginalda Wanyonyi, MP
10. Hon. Opiyo Wandayi MP
11. Hon. Jude Njomo MP
12. Hon. Ndritu Mathenge, MP
13. Hon. (Dr) Ottechilo Wilbur, MP
14. Hon. Kipkorir Rop, MP

Chairperson

Chairperson
3/10/13
Abdalla
Ndritu

APOLOGIES

Vice Chair Person

1. Hon Alexander Kosgey MP
2. Hon. Khatab Mwashetani, MP
3. Hon. Gideon M. Irea MP
4. Hon. Dukcha Hassan, MP
5. Hon. Joyce Emanikor MP
6. Hon. Kiproch Tonu, MP
7. Hon Zainab Chidzuga, MP
8. Hon. Peter Kinya, MP
9. Hon Aisha Katana, MP
10. Hon. Alice N'anga, MP
11. Hon. Farah A. Ali, MP
12. Hon. Oner Ogalo MP
13. Hon. Kaur S. Bidi MP
14. Hon. E. N. Barua, MP
15. Hon. Marcus Mulwi MP

IN-ATTENDANCE

NATIONAL ASSEMBLY

- Hassan Odhwa Research Officer- ENR Committee
- Michael Njenga. Junior Legislative Fellow.

IN-ATTENDANCE

INVITED GUESTS

1. George Wamukoya: CREEL

- Functions under section 19(1(a),(b),(d) and (e) were made functions of the CS and (c) was made a function of KWS
- Functions under 19(f) to (I)- were to be married with the National wildlife Conservation and Management Strategy

Section 24: County Wildlife Conservation and Compensation Committee

- It was agreed that the County Conservation Committee and the County Compensation Committee should be merged to form the County Wildlife Conservation and Compensation Committee to deal with both conservation and compensation. This amendment is to be reflected in the subsequent sections. Their functions were also agreed to collapsed and harmonised. The following functions were add:-

(a) Develop and implement, in collaboration with Community Wildlife Associations, Mechanisms for mitigation of Human wildlife Conflict

(b) Review and recommend claims resulting from loss or damage caused by Wildlife for payment of compensation

- The membership of the resultant Committee shall be as follows:
 - Chairman appointed by the Cabinet Secretary through a competitive process, who shall have at least ten years experience in wildlife conservation and management.
 - A representative of the county government
 - An agricultural officer based in the county
 - A land use planning officer responsible for the county
 - A livestock officer responsible for the county
 - The officer of the service for the county who shall be the secretary
 - Four persons not being officers knowledgeable in wildlife matters and nominated by the Community Wildlife Associations within the area through an elective process
 - A medical officer for health for the county
 - The officer in-charge of the county police matters
 - County environment officer

Section 28: (1) Replace Service with the Cabinet Secretary and add service to have advisory role

Section 28: (5) Amend the name of the fund to endowment Fund

Reference to Authority to be replaced with Cabinet Secretary

Section 29: Edit the numberings

Section 29: The Endowment Fund. The Members agreed to retain the endowment fund. It was agreed that the title should be amended to read Endowment Fund and not scheme. The endowment fund shall be utilized in the following areas:

- development of wildlife conservation initiatives
- management and restoration of protected areas and conservancies
- protection of endangered species, habitats and ecosystems
- support wildlife security operations
- facilitation of community based wildlife initiatives
- such other purposes as may be provided for by rules made under this Act

Section 31: Correct Numbering

Section 31(2): Make reference to the correct section-Knowing the Changes made to the compensation Committee. Submit to the **Ministry** not Service

Section 31: The following was agreed on Compensation for injury or harm caused by Third Schedule Animals:

- Kenya Shillings Three million (Kshs. 3 Million) in case of death
- Kenya shillings Two million (Kshs 2 Million) in case of permanent disability and
- Kenya shillings One million (kshs 1 Million) in case of injury, depending on the extent of injury.

Section 31(5): Cross reference with EMCA

Section 32: This section is deleted and merged with the Committee in Section 24

PART VI: CONSERVATION, PROTECTION AND MANAGEMENT

In this Part Members agreed as follows:-

Section 38: Members agreed that the Cabinet Secretary should first seek the approval of National Assembly before declaring 38 (a), (b) and (c) but not for (d) and (e)

Section 39(1): The Cabinet Secretary should first seek the Approval of the National Assembly

Section 40: This section should be Cross referenced with the relevant provision in EMCA

Section 42 and 43: Agreed the Sections to be re-arranged and that section 41 should come after section 42 and 43

Section 43(i): Members agreed that this section should have the approval of the National Assembly
Add 41(b): to Read; On the Advice of the Service the Cabinet Secretary Shall provide the guidelines, procedures and regulations

Sections 97-98 of the Bill to come immediately after the current Section 41

Section 44: Delete County Park and replace with National Reserve

Section 47(1): addoil and gas exploration and extraction without the Consent of the Cabinet Secretary and the Approval of the National Assembly

Section 47: (2) (f) add at the end ..Under the Mining ACT

Section 49: Provision for regular update of the Schedule

Section 51: (4) add at the end..Biannually

Insert new Section after Section 51: Members agreed to establish a Wildlife Research and Training Institute and state its functions

Section 53: Edit numbering

Section 59: amend Any party to Person and at the end add...in accordance with the regulations

Section 60: Amend Council to CS

Section 64: (1) add authorised before officer

Section: 67: To be compared with the Agreed functions of KWS and The CS.

Section 67(3): (f) add: in game farming

Add proviso for culling: as last resort and that other management tools such as translocation has been explored and that violation of these attracts hefty penalty

After the intense session that lasted up to 4.00pm in the afternoon, the chair congratulated the

Members for their sacrifice and resolved to continue with the rest of the amendments during their next meeting.

MIN. NO. 0284/2013: ANY OTHER BUSINESS

There was no other Business.

MIN. NO.0285/2013: DATE OF NEXT MEETING

Members agreed to adjourn the meeting and to convene on Monday October 7 2013 to finalize the amendments.

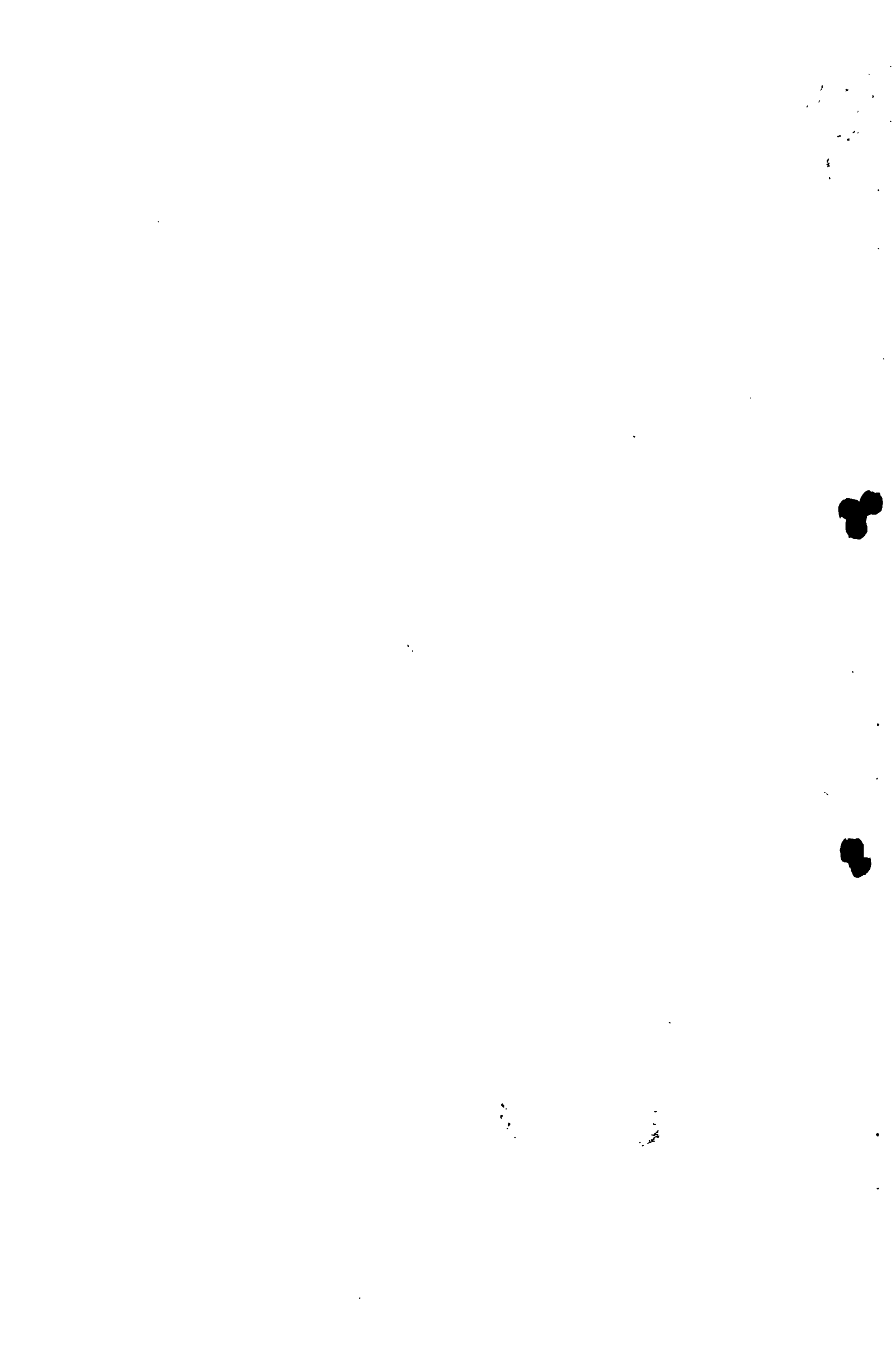
MIN. NO. 0286/2013: ADJOURNMENT

There being no other business the chair adjourned the meeting at 4.01 pm

Signature.....

Date.....24/10/2013

Chairperson



MINUTES OF THE 23rd SITTING OF THE DEPARTMENTAL, COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY, JULY 18 2013 IN BOARD ROOM, SECOND FLOOR, PROTECTION HOUSE AT 11:00AM.

PRESENT

1. Hon. Amina Abdalla, MP
 2. Hon. Moitalel Ole Kenta, MP
 3. Hon. Major Muluvi Mutua, Mp
 4. Hon. Opiyo Wandayi, MP
 5. Hon. Sunjeev Birdi, MP
 6. Hon. Ejidius N. Barua, MP
 7. Hon. Charles Geni Mong'are, MP
 8. Hon. Diriye Abdullahi, MP
 9. Hon. Zainab Chidzuga, MP
 10. Hon (Dr.) Reginalda Wanyonyi, MP
 11. Hon. ~~Alice Ng'ang'a, MP~~ *NEIRIN MUKHESSE*
 12. Hon. Murungi Kathuri, MP
 13. Hon. Kiprotich Tonui, MP
 14. Hon. Peter Kinyua, MP
 15. Hon. Dr. Ottichilo Wilber, MP
 16. Hon. Alice Ng'ang'a, MP
 17. Hon. Shukra Gure, MP
 18. Hon. Chachu Ganya, MP
- Chairperson

ABSENT WITH APOLOGY

1. Hon J. Njomo, MP
 2. Hon. Alexander Kosgey, MP
 3. Hon. Ogalo Oner, MP
 4. Hon. Farah A. Ali, MP
 5. Hon. Dukicha Hassan, MP
 6. Hon. Irea Gedion Mwiti, MP
 7. Hon. Abdinoor Ali, MP
 8. Hon. Joyce Emanikor, MP
 9. Hon. Khatib Abdallah Mwashetani, MP
 10. Hon. Kipkorir Rop, MP
 11. Hon Aisha Katana, MP
- Vice Chairperson

Johnston Kioko : Clerk Assistant
Ahmed H. Odhowa: Research Officer, ENR Committee.
Emmanuel Ogechi: Junior Legislative Fellow

The Agenda:-

- i. Prayers
- ii. Adoption of the Agenda
- iii. Confirmation of Minutes
- iv. Matters Arising
- v. Consideration of the Draft Wildlife Conservation and Management Bill and Policy, 2013
- vi. Any other Business

MIN. NO. 0135/2013: INTRODUCTION

The Chair called at 11.20 am the meeting to order and asked the clerk Mr. Johnston Kioko to lead the committee in a word of prayer.

MIN.NO. 0136/2013: ADOPTION OF AGENDA

After perusing through the Agenda for the day, Members adopted the agenda proposed by Hon Abdnour Ali and seconded by Hon. H. Diriye

MIN. NO. 0137/2013: CONFIRMATION OF MINUTES

The chair requested Members to defer confirmation of the minutes of July 11th Meeting because they were not ready. However, Members went on to confirm the previous Minutes of July 4, 2013 meeting as proposed by Hon. Opiyo Wandayi and seconded by Hon. Ole Kenta.

They also confirmed the minutes of July 9, 2013 Committee meeting as proposed by Hon Njogu Barua and seconded by Hon. A. Abdnor.

MIN.NO. 0138/2013: MATTERS ARISING FROM MINUTES

There was no matters arising.

MIN.NO. 0139/2013: DRAFT WILDLIFE CONSERVATION AND MANAGEMENT BILL AND POLICY, 2013

After circulating copies the Draft Bill, the Chair informed the Members that there was need for them to read carefully through this important Draft Bill in order prepare them for its impending debate by House. Hon. Chachu Ganya and Hon. Wilbur Ottichillo were tasked by the Members to scrutinize the draft Bill and isolate salient issues covered in the proposed legislation, in order to assist the Committee during the initial discussion on the matter.

The Research officer, Mr. Hassan Odhowa was also asked to give a brief analysis of the Draft Bill to assist Members. Consideration of the draft Bill by the Members was scheduled for the next meeting- Tuesday 23 July 2013, where members would be expected to give their input.

MIN. NO.0140/2013: ANY OTHER BUSINESS

The Chair reminded the Team Leaders of the four sub-committees (Water, Environment, Mining and Regional Development Authorities) to finalize the drawing of their sub-committee work-plans for presentation during the committee meeting on Thursday, 25 July 2013.

MIN. NO.0141/2013: DATE OF NEXT MEETING

Members agreed to adjourn the meeting to convene again at 9.00am on Tuesday July 23 2013 at a venue to be communicated by the Clerk.

MIN. NO. 0142/2013: ADJOURNMENT

There being no other business the chair adjourned the meeting at 12. 20 pm.

Signature.....

Date.....24/10/2013

Chairperson

MINUTES OF THE 24th SITTING OF THE DEPARTMENTAL COMMITTEE ON
ENVIRONMENT AND NATURAL RESOURCES HELD ON TUESDAY, JULY 23
2013 IN BOARD ROOM, NINETH FLOOR, HARAMBEE PLAZA AT 9:00AM.

PRESENT

1. Hon. Amina Abdalla, MP
2. Hon. Alexander Kosgey, MP
3. Hon. Farah A. Ali, MP
4. Hon. Joyce Emanikor, MP
5. Hon. Moitalel Ole Kenta, MP
6. Hon. Major Muluvi Mutua, MP
7. Hon. Opiyo Wandayi, MP
8. Hon. Sunjeev Birdi, MP
9. Hon. Ejidius N. Barua, MP
10. Hon. Charles Geni Mong'are, MP
11. Hon. Diriye Abdullahi, MP
12. Hon. Zainab Chidzuga, MP
13. Hon (Dr.) Reginalda Wanyonyi, MP
14. Hon. Ndiritu Mathenge, MP
15. Hon. Peter Kinyua, MP
16. Hon. Dr. Ottichilo Wilber, MP
17. Hon. Chachu Ganya, MP
18. Hon. Aisha Katana, MP
19. Hon. Kipkorir Rop, MP
20. Hon. Khatib Abdallah Mwashetani, MP
21. Hon. Abdinoor Ali, MP

Chairperson
Vice Chairperson

ABSENT WITH APOLOGY

1. Hon J. Njomo, MP
2. Hon. Kiprotich Tonui, MP
3. Hon. Ogalo Oner, MP
4. Hon. Dukicha Hassan, MP
5. Hon. Irea Gedion Mwiti, MP
6. Hon. Murungi Kathuri, MP
7. Hon. Alice Ng'ang'a, MP
8. Hon. Shukra Gure, MP

*Proposed Wanyonyi
Secured*

Johnston Kioko : Clerk Assistant
Emmanuel Ogechi: Junior Legislative Fellow

The Agenda:-

- i. Prayers
- ii. Adoption of the Agenda
- iii. Confirmation of Minutes
- iv. Matters Arising
- v. Briefs on salient issues in the Draft Wildlife Conservation and Management Bill and Policy, 2013
- vi. Any other Business

MIN. NO. 0143/2013: INTRODUCTION

The Chair called at 9.20 am the meeting to order and asked the clerk Mr. Johnston Kioko to lead the committee in a word of prayer.

MIN. NO. 0144/2013: ADOPTION OF AGENDA

After perusing through the Agenda for the day, Members adopted the agenda proposed by Hon. Alexander Kosgei and seconded by Hon. Abdnoor Ali.

MIN. NO. 0145/2013: CONFIRMATION OF MINUTES

Members proceeded to confirm the previous Minutes of July 18, 2013 meeting as proposed by Hon. Mohamed Diriye and seconded by Hon. Njogu Barua.

MIN.NO. 0146/2013: MATTERS ARISING FROM MINUTES

There were no substantive matters arising from the minutes although Members noted that the name of Hon. Ndiritu Mathenge was missing from the list of those who attended. The minutes also failed to capture the names of Hon. E Barua and Hon. Dr Reginalda Wanyonyi among the four Members tasked to scrutinize the proposed Bill and present their take on the salient issues covered in the content of the proposed legislation..

MIN.NO. 0147/2013: BRIEF ON SALIENT ISSUES IN THE WILDLIFE

CONSERVATION AND MANAGEMENT BILL AND POLICY, 2013

During his briefs regarding the salient Issues in the Draft, Hon. Chachu Ganya led Members through parts of Bill and told members that;

- The contents of the Bill was very okay but had problem with the structuring of the parts of the Bill.
- The Bill was comprehensive and had a introduced a human face in the conservation and management of wildlife;
- The institutional framework as proposed posed some problems especially when it came to the roles of Wildlife regulatory Council, County Conservation Committees and Kenya wildlife Service.
- There were also issues of benefit sharing and compensation against loss of property, injuries and death occasioned by wildlife.

In his remarks, Hon. Ottichillo hailed the Bill as progressive and transformative, encouraging public participation and recognizing wildlife as a form of land use. However, the Bill threatens to downgrade the status of Kenya Wildlife Service.

After deliberating on the issue, Members agreed that the Bill needs to address the realignment of institutional framework, clarification on gazzement policy and procedure, incentives to land owners and strengthening the issues of community participation, among others.

Members further resolved to invite the Cabinet Secretary of Environment, Water and Natural Resources, on Tuesday 30/ 07/2013 for a session with the Members of the Committee to further brainstorm on the Bill. The clerk was asked to send the letter of invitation and to follow up on the invitation.

MIN. NO.0148/2013: ANY OTHER BUSINESS

The Chair informed Members that Hon. Kenta (also Member of the Committee) had expressed his desire to volunteer more information regarding gold mining and export activities by the two companies (Ushindi exports and Skyhawk international) before the committee finalizes the report/statement as requested by Hon Bare Shill, MP for Fafi constituency.

Members agreed to meet Hon. Ole Kenta him on Monday 29/7/2013 at 2.30pm. Additionally the Committee resolved to invite the CID Director on Thursday, 1/8/2013 at 10.00am to get updates on the investigation being carried by the Department regarding allegations of money laundering activities by the said companies.

MIN. NO.0149/2013: DATE OF NEXT MEETING

Members agreed to adjourn the meeting to convene again at 2.30.00 Pm on Monday July 29 2013 at a venue to be communicated by the Clerk.

MIN. NO. 0150/2013: ADJOURNMENT

There being no other business the chair adjourned the meeting at 11. 49am.

Signature..........

Date.....24/10/2013.....

Chairperson

Annexes

ANNEX 1

REPUBLIC OF KENYA



KENYA NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT

In the Matter of consideration by the National Assembly, of The Wildlife Conservation and Management Bill, (National Assembly Bill No. 21 of 2013)

SUBMISSION OF MEMORANDA

Article 118(1)(b) of the Constitution provides that *“Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees”*. Standing Order 127(3) states that *“the Departmental Committee to which a Bill is Committed shall facilitate public participation and shall take into account views and recommendations of the public when the Committee makes its report to the House”*.

Following the First Reading of the Wildlife Conservation and Management Bill, (National Assembly Bill No. 21 of 2013) on Wednesday, 18 September 2013, the Bill stood Committed to the Departmental Committee on Environment and Natural Resources for consideration and thereafter submission of a report to the House within twenty days.

Pursuant to Article 118(1) (b) and Standing Order 127(3), the Committee invites interested members of the public to submit any representations they may have on the Wildlife Conservation and Management Bill, 2013. The representations may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to clerk@parliament.go.ke; to be received on or before Monday, 30th September, 2013 at 5.00 pm.

JUSTIN BUNDI
CLERK OF THE NATIONAL ASSEMBLY

ANNEX 2: PROPOSED AMMENDMENTS

Title:

A. PART 1: Preliminary

Section 1: To read: 2013 and coming to operation to have a specific date but not left to the prerogative of the Cabinet Secretary

Section 2: To Add: and Kenya Territorial Waters

Section 3: Definitions

The Committee agreed that the following terms need to be defined in the Bill:-

- **“bio-piracy”** refers to the exploration of biological resources without the knowledge and non coercive prior consent of the owners of the resources and without fair compensation and benefit sharing
- **Bio-prospecting’** means the exploration of biodiversity for commercially valuable genetic and biochemical resources
- **Biological resources’** includes genetic resources, organisms or parts thereof, populations, or any other biotic component of ecosystems with actual or potential use or value for humanity
- **Biotechnology’** means any technological application that uses biological systems, living organisms, or derivatives thereof, to make or modify products or processes for specific use
- **‘Conservation Area’** means a tract of land, lake or sea with notable environmental, natural features, biological diversity, cultural heritage, or historical importance that is protected by law against undesirable changes.
- **Cropping:** add: in **game farming**

- “genetic resources” means genetic material extracted from wildlife;
- **multilateral environmental agreement**” means an agreement involving three or more parties regarding sustainable environmental management;
- **‘Protected area’** means a clearly defined geographical space, recognized, dedicated and managed through legal or other effective means, to achieve long-term conservation of nature with associated ecosystem services and cultural values Ministry
- **National Park’** means an area of land and/or sea especially dedicated to the protection and maintenance of biological diversity, and of natural and associated cultural resources, and managed through legal or other effective means.
- **“National reserve”** means an area of community land declared to be a national reserve under this Act or under any other applicable written law.
- **Marine Reserve’** means a Marine Protected Area where subsistence fishing is permitted
- **‘Marine Park’** means Area of marine protected area where no fishing, construction work or any disturbance is allowed unless with written permission has been granted by the Director
- **Weapons’** means a tool, implement, firearm, ammunition or any item that may be used to injure or kill a wild animal for any reason.
- **‘Wildlife conservation area”** means a tract of land, lake or sea that is protected by law for purposes of wildlife and biological diversity conservation. A wildlife conservation area may be a National Park, national Reserve, Game Reserve or sanctuary.

- **Wildlife**” means any wild and indigenous animal, plant or microorganism or parts thereof within its constituent habitat or ecosystem on land or in water, as well as species that have been introduced into or established in Kenya.

Section 5: The Directorate be deleted- The directorate can be established administratively

Section 6: Be deleted and the functions be transferred to the **Ministry**

B: PART II: ESTABLISHMENT OF THE SERVICE

The Committee agreed on the following under Part II:-

Under Section 7: (1) to add: “uniformed and disciplined”- This will give the Service National security privileges and entitlements

Under Section 8 to add the following additional functions to the Service:

- (a) Identification and advising on user rights to Cabinet Secretary
- (b) Granting of permits
- (c) Establish Forensic Lab
- (d) Monitoring and compliance of licence terms and conditions

Under section 9 the following was agreed:-

Section 9: (2)(a) to delete “on the recommendation of the Public Service Commission so that it is in line with the current practice

Section 9: (2) (f) to add that the Vice Chair to be elected From among this group

Section 9: (2) f (ii) to delete this as members were not convinced of the role of the NGO

Section 9: 2)(fiii) to amend this provision to read: “two representatives from community managed wildlife areas nominated by an umbrella wildlife conservancies body one from either gender”.

Section 9: The position of Director was amended to Director to **Director General** and also in subsequent sections should be amended to reflect the change of the title

Section 9: The addition of provision to stagger the appointments of the Board Members so that the terms of the board member expire at different times for continuity and institutional memory.

Section 12(1): to **add** that no person shall be appointed as the Director General unless such person holds minimum qualifications of a post-graduate degree and at least 15 years experience in a relevant profession and meets the requirements of Chapter 6 of the Constitution.”

C. PART III: FINANCIAL PROVISIONS

The following was agreed under this part:-

That the County Wildlife Conservation and Compensation Committees be paid a sitting allowance. This will be factored in the budget of the Service. The rates will be recommended by the Salaries and Remuneration Commission.

D. PART IV: THE WILDLIFE REGULATORY COUNCIL

In this Part Members agreed as follows:-

- The Committee agreed to delete the Council. It was noted that the functions of the Wildlife Regulatory Council (WRC) and the Service were duplicated it was thus agreed there is no need to have parallel institutions with similar functions. Some of the Functions were transferred to KWS while the granting of user rights was made a function of the Cabinet Secretary.
- **This PART IV:** was renamed as **WILDLIFE REGULATORY MECHANISM**

- **Section 18** was **deleted** and replaced as : The National Wildlife Conservation and Management Strategy
- **Sections 18- 23** were deleted
- **Functions under section 19(1(a),(b),(d) and (e)** were made functions of the CS and (c) was made a function of KWS
- **Functions under 19(f) to (I)-** were to be married with the National wildlife Conservation and Management Strategy

Section 24: County Wildlife Conservation and Compensation Committee

- It was agreed that the County Conservation Committee and the County Compensation Committee should be merged to form the County Wildlife Conservation and Compensation Committee to deal with both conservation and compensation. This amendment is to be reflected in the subsequent sections. Their functions were also agreed to collapsed and harmonised. The following functions were add:-
 - (a) Develop and implement, in collaboration with Community Wildlife Associations, Mechanisms for mitigation of Human wildlife Conflict
 - (b) Review and recommend claims resulting from loss or damage caused by Wildlife for payment of compensation
- The membership of the resultant Committee shall be as follows:
 - Chairman appointed by the Cabinet Secretary through a competitive proces, who shall have at least ten years experience in wildlife conservation and management.
 - A representative of the county government
 - An agricultural officer based in the county

- A land use planning officer responsible for the county
- A livestock officer responsible for the county
- The officer of the service for the county who shall be the secretary
- Four persons not being officers knowledgeable in wildlife matters and nominated by the Community Wildlife Associations within the area through an elective process
- A medical officer for health for the county
- The officer in-charge of the county police matters
- County environment officer

Section 28: (1) Replace Service with the Cabinet Secretary and add service to have advisory role

Section 28: (5) Amend the name of the fund to endowment Fund

Reference to Authority to be replaced with **Cabinet Secretary**

Section 29: Edit the numberings

Section 29: The Endowment Fund. The Members agreed to retain the endowment fund. It was agreed that the title should be amended to read Endowment Fund and not scheme. The endowment fund shall be utilized in the following areas:

- development of wildlife conservation initiatives
- management and restoration of protected areas and conservancies
- protection of endangered species, habitats and ecosystems
- support wildlife security operations
- facilitation of community based wildlife initiatives

- such other purposes as may be provided for by rules made under this Act

Section 31: Correct Numbering

Section 31(2): Make reference to the correct section-Knowing the Changes made to the compensation Committee. Submit to the **Ministry** not Service

Section 31: The following was agreed on Compensation for injury or harm caused by Third Schedule Animals:

- Kenya Shillings Three million (Kshs. 3 Million) in case of death
- Kenya shillings Two million (Kshs 2 Million) in case of permanent disability and
- Kenya shillings One million (kshs 1 Million) in case of injury, depending on the extent of injury.

Section 31(5): Cross reference with EMCA

Section 32: This section is deleted and merged with the Committee in **Section 24**

PART VI: CONSERVATION, PROTECTION AND MANAGEMENT

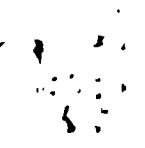
In this Part Members agreed as follows:-

Section 38: Members agreed that the Cabinet Secretary should first seek the approval of National Assembly before declaring 38 (a), (b) and (c) but not for (d) and (e)

Section 39(1): The Cabinet Secretary should first seek the Approval of the National Assembly

Section 40: This section should be Cross referenced with the relevant provision in EMCA

Section 42 and 43: Agreed the Sections to be re-arranged and that **section 41** should come after **section 42 and 43**



Section 43(i): Members agreed that this section should have the approval of the National Assembly

Add 41(b): **to Read;** On the Advice of the Service the Cabinet Secretary Shall provide the guidelines, procedures and regulations

Sections 97-98 of the Bill to come immediately after the **current Section 41**

Section 44: **Delete** County Park and replace with National Reserve

Section 47(1): **add** ...oil and gas exploration and extraction without the Consent of the Cabinet Secretary and the Approval of the National Assembly

Section 47: (2) (f) **add** at the end ..Under the Mining ACT

Section 49: Provision for regular update of the Schedule

Section 51: (4) **add** at the end..**Biannually**

Insert new Section after Section 51: Members agreed to establish a Wildlife Research and Training Institute and state its functions

Section 53: Edit numbering

Section 59: amend **Any party** to **Person** and at the end **add**...in accordance with the regulations

Section 60: Amend **Council** to **CS**

Section 64: (1) **add authorised** before **officer**

Section: **67:** To be compared with the Agreed functions of KWS and The CS.

Section 67(3): (e) **add:** in game farming

Add proviso for culling in the schedule: as last resort and that such other management tools such translocation has been explored and that violation of these attracts hefty penalty

Amendment of Section 71. Section 71 is amended in subsection (2) by deleting the word "Council" and substituting therefor the word "Service".

Amendment of Section 72. Section 72 is amended in subsection (1) by deleting the word "Council"