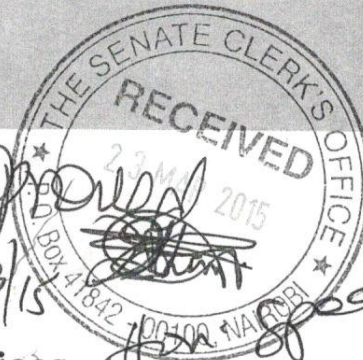


INTERNAL MEMO

STANDING COMMITTEE HEALTH

To: Speaker of the Senate
Thro': Clerk of the Senate
From: Director, Committee Services
Date: 23rd MARCH, 2015



RE: REPORT OF THE OWINO OURU PUBLIC PETITION

The above matter refers.

The Committee has concluded its consideration of the Public Petition to the Senate regarding complaints of lead poisoning and environmental hazards posed by the Kenya Metal Refineries (EPZ) Limited to the residents of Owino Ouru Village.

Kindly find attached the report for your information and approval for tabling it to the Senate.

Njenga Njuguna.

D/Com

Not signed? ✓

Mrs Njenga Adjibodon - SCA Health

Please note and advise the Chair for tabling.

25/03/15

REPUBLIC OF KENYA



*Paper laid on the
table of the Senate
on 1/04/2015*

PARLIAMENT

ELEVENTH PARLIAMENT - THIRD SESSION

REPORT

OF

THE STANDING COMMITTEE ON HEALTH

ON

THE OWINO OURU PUBLIC PETITION

CLERK'S CHAMBERS,
THE SENATE,
PARLIAMENT OF KENYA,
K.I.C.C BUILDING
NAIROBI

Hon. Speaker
You may approve
for tabling.
[Signature]
24/03/15

MARCH, 2015

Contents

ACRONYMS.....	4
PREFACE	5
CHAPTER ONE: INTRODUCTION	7
1.1 Committee Mandate and Membership	7
1.2 Background to the Petition	7
1.2.1 The Right to Petition.....	7
1.2.2 The Owino-Ouru Public Petition	8
1.2.3 Kenya Metal Refineries (EPZ) Limited.....	10
1.2.4 Referral to the Senate Health Committee.....	10
CHAPTER TWO: COMMITTEE'S RESPONSE TO THE PETITION.....	11
2.1 Committee's Proceedings	11
2.2 Fact-Finding Tour	12
2.3 Deliberative Sessions	12
2.4 Review of Documents.....	12
CHAPTER THREE: COMMITTEE FINDINGS	13
3.1 Mombasa County Health Department Visit.....	13
3.2 Meeting with Mombasa County Health Department Officials	13
3.3 Meeting with Mombasa County NEMA Officials.....	17
3.4 Owino Ouru Village Visit	19
3.4.1 Villager 1: Mr. Alfred Ogola.....	20
3.4.2 Villager 2: Mr. David Mahala.....	20
3.4.3 Villager 3: Mama Scholastica	20
3.4.4 Villager 4: Youth	21
3.4.5 Villager 5: Youth	21
3.4.6 Villager 6: Osmas Otieno	21
3.4.7 Villager 7: Janet.....	22
3.4.8 Village 8: Head of Nyumba Kumi	22
3.5 Visit to the Mikindani Health Centre.....	22
3.6 Visit to the Kenya Metal Refineries (EPZ) Limited Factory	23
3.7 Meeting with Ms. Phyllis Omido and Other Human Rights Activists.....	23

3.8	Review of Recommendations of the Public Complaints Committee (PCC) No. 96/2009.....	23
3.8.1	PCC Findings	24
3.8.1.1	Compliance to statutory obligations and government agency actions.....	24
3.8.1.2	Pollution	25
3.8.1.3	Mitigating actions by the factory:.....	25
3.8.1.4	Legislative Framework	26
3.8.2	PCC Recommendations:	27
CHAPTER FOUR: COMMITTEE OBSERVATIONS, DETERMINATIONS AND RECOMMENDATIONS		29
4.1	Committee Observations	29
4.2	Committee Determinations	31
4.3	Committee Recommendations.....	33

Appendix

1. A copy of the Petition
2. Newspaper cutting report
3. Programme of the Committee's visit to the Owino Ouru Village
4. List of Participants at the meeting with Health Department officials, Mombasa County
5. Registration information of Kenya Metal Refineries EPZ Limited
6. Recommendations of Public Complaints Committee and subsequent reports

ACRONYMS

Dr.	Doctor
EIA	Environmental Impact Assessment
EPZ	Export Processing Zone
HIA	Health Impact Assessment
Hon.	Honorable
KICC	Kenyatta International Conference Centre
KSHs.	Kenyan Shillings
MOH	Ministry of Health
MOPHS	Ministry of Public Health and Sanitation
MP	Member of Parliament
NEMA	National Environmental Management Authority
PCC	Public Complaints Committee
Prof.	Professor
Sen.	Senator

PREFACE

The Standing Committee on Health is established under the Senate Standing Order 208(3) and is mandated to consider all matters related to medical services, public health and sanitation.

Pursuant to Standing Order 219, I am pleased to present and table the report on the public petition to the Senate regarding complaints of lead poisoning and environmental hazards posed by Kenya Metal Refineries (EPZ) Limited to the residents of Owino Ouru Village.

The petitioners submitted their prayers in line with Articles 37 and 119 of the Constitution and guided by the provisions of the Senate Standing Orders. The prayers were based on violations of their rights to health and to a clean and healthy environment as stipulated in Articles 42, 43, 69 and 70 of the Constitution.

Membership of the Committee

The Membership of the Committee is as follows:-

- | | | |
|-------------------------------|---|------------------|
| 1. Sen. (Dr.) Mohammed Kuti | - | Chairperson |
| 2. Sen. Zipporah Kittony | - | Vice Chairperson |
| 3. Sen. Abdirahman Hassan Ali | - | Member |
| 4. Sen. Beth Mugo | - | Member |
| 5. Sen. (Prof.) Wilfred Lesan | - | Member |
| 6. Sen. Catherine Mukiite | - | Member |
| 7. Sen. Mvita Mshenga | - | Member |
| 8. Sen. Wilfred Machage | - | Member |
| 9. Sen. Godliver Omondi | - | Member |

Acknowledgement

The Committee wishes to acknowledge the time and considerable effort made by all parties who volunteered information before it. I also wish to express my gratitude to my colleagues for their thoughtful input and engaged contributions to the matter. Further, the Committee is indebted to the Office of the Speaker and the Clerk of the Senate for facilitating all the actions that led to the production of this report. The Committee also wishes to recognize the commitment and dedication of the staff of the committee that made the work of the Committee and the production of this report possible.

Mr. Speaker Sir,

It is now my pleasant duty to table the report of the Standing Committee on Health, in relation to the public petition regarding complaints of lead poisoning and the environmental hazards posed by the Kenya Metal Refineries (EPZ) Limited pursuant to Standing Order 225.

Signed:  Date: 17/3/2015

THE HON. SEN. (DR.) MOHAMMED KUTI

CHAIRPERSON, STANDING COMMITTEE ON HEALTH.

CHAPTER ONE: INTRODUCTION

1.1 Committee Mandate and Membership

The Standing Committee on Health is established under the Senate Standing Orders, No. 208. The functions and mandate of the Committee are contained under Schedule Two of the Senate Standing Orders as follows: to consider all matters relating to Medical Services, Public Health and Sanitation.

The delegation to Owino Ouru villabe comprised of the following:-

- | | | | |
|-----|---|---|------------------------|
| 1. | Sen. Zipporah Kittony | - | Vice-Chairperson |
| 2. | Sen. Wilfred Machage | - | Member |
| 3. | Sen. Mviita Mshenga | - | Member |
| 4. | Sen. Godliver | - | Member |
| 5. | Sen. Catherine Mukiite | - | Member |
| 6. | Sen. Wilfred Lesan | - | Member |
| 7. | Sen. Abdirahman Hassan | - | Member |
| 8. | Ms. Marya Adjibodou | - | Senior Clerk Assistant |
| 9. | Mr. Joseph Mwangi | - | Clerk Assistant |
| 10. | Dr. Christine Sagini | - | Research Officer |
| 11. | Two officers from the serjeant at arms department | | |

1.2 Background to the Petition

1.2.1 The Right to Petition

The right of Kenyan citizens to petition public authorities and Parliament is a right conferred by the Constitution under Articles 37 and Article 119 of the Constitution; by the Petition to Parliament (Procedure) Act; and, by the Standing Orders of the Senate. The right to petition is an essential citizen participatory tool that allows for direct intervention by Parliament on issues relating to the promotion and protection of the rights of citizens.

1.2.2 The Owino-Ouru Public Petition

On March 25th, 2014, a public petition from residents of Owino Ouru was tabled before the Senate by Senator Emma Mbura. The petition addressed complaints of lead poisoning from a local battery recycling factory known as Kenya Metal Refineries (Export Processing Zone (EPZ) Limited. According to the petition, symptoms of lead poisoning amongst the general population in Owino-Ouru village were manifested in the following manner:

1. Memory loss;
2. Insomnia;
3. Delirium/hallucinations;
4. Cognitive deficits;
5. Slowed/retarded growth;
6. Decline in mental functioning, mood disorders, irritability, learning difficulties;
7. Convulsions, body tremors;
8. Headaches, abdominal pain, vomiting, constipation;
9. Kidney failure, high blood pressure;
10. Male reproductive problems e.g. reduced sperm count, abnormal sperm;
11. Loss of appetite, weight loss, sluggishness, fatigue;
12. Body/muscular weakness;
13. Pain, numbness, tingling in the extremities;
14. Miscarriages, premature births or babies born with deformities; and
15. Deaths of area residents, pets and trees.

Further, the petition indicated that the following attempts to resolve the matter and/or to seek relief had been sought but that they had all failed:

1. Visits to the management of the organization;
2. Pleas by village elders to the Provincial Administration and others in authority;
3. Pleas to civil society groups;

4. Peaceful demonstrations and marches; and
5. Pleas to National Environmental Management Authority (NEMA) and similar authorities.

The petitioners therefore prayed that the Senate urgently consider forming a special committee to inquire into the matter with a view to issuing:

1. Orders to immediately close down and remove or relocate the offending plant from the area;
2. Orders to compel the plant and its various owners over the years to pay for:-
 - 1) The immediate clearing of the environment, including detoxifying and restoring the soil;
 - 2) The replanting of destroyed trees;
 - 3) The immediate testing of all of all the residents of Owino-Ouru Village for lead exposure;
 - 4) The detoxification of all infected persons and pets;
 - 5) The removal of hazardous waste slug the plant has disposed off over the years and continues to dispose of at the Mwakirunge Dumpsite;
 - 6) The testing of all the 'street children' and other persons who scavenge for a living at the dumpsite; and
 - 7) The immediate and full compensation of all victims.

1.2.3 Kenya Metal Refineries (EPZ) Limited

The above named is a battery-recycling factory that is situated along the Mombasa-Nairobi Highway on Plot No. **1707 SECT/V/MN/MIKINDANI /MOMBASA**. In a letter from the Office of the Permanent Secretary, Ministry of Public Health and Sanitation (MOPHS) to the Provincial Director of Public

4. Peaceful demonstrations and marches; and
5. Pleas to National Environmental Management Authority (NEMA) and similar authorities.

The petitioners therefore prayed that the Senate urgently consider forming a special committee to inquire into the matter with a view to issuing:

1. Orders to immediately close down and remove or relocate the offending plant from the area;
2. Orders to compel the plant and its various owners over the years to pay for:-
 - 1) The immediate clearing of the environment, including detoxifying and restoring the soil;
 - 2) The replanting of destroyed trees;
 - 3) The immediate testing of all of all the residents of Owino-Ouru Village for lead exposure;
 - 4) The detoxification of all infected persons and pets;
 - 5) The removal of hazardous waste slug the plant has disposed off over the years and continues to dispose of at the Mwakirunge Dumpsite;
 - 6) The testing of all the 'street children' and other persons who scavenge for a living at the dumpsite; and
 - 7) The immediate and full compensation of all victims.

1.2.3 Kenya Metal Refineries (EPZ) Limited

The above named is a battery-recycling factory that is situated along the Mombasa-Nairobi Highway on Plot No. **1707 SECT/V/MN/MIKINDANI /MOMBASA**. In a letter from the Office of the Permanent Secretary, Ministry of Public Health and Sanitation (MOPHS) to the Provincial Director of Public

CHAPTER TWO: COMMITTEE'S RESPONSE TO THE PETITION

2.1 Committee's Proceedings

The guiding principle in the Committees' approach to the Owino Ouru petition was to reply to the prayers of the petitioners conclusively. The Members of the Committee analyzed the issues to be determined from the prayers of the petitioners and identified the necessary action to be taken.

In its 19th Sitting held on 6th August, 2014, the Committee resolved to conduct a fact-finding mission to the factory and to Owino Ouru Village on 11th August, 2014. Further to the above, the Committee resolved to invite the petitioners, the management of the company, county public health officials, NEMA officials and Ms. Phyllis Omido and other human rights activists to give the necessary information to reach a conclusion on the prayers.

It should be noted in this House that the factory management failed to meet with the Committee despite repeated requests by the Committee secretariat.

The committee held deliberative sessions, reviewed documents and undertook a fact-finding tour to determine the issues raised by the petitioners.

2.2 Fact-Finding Tour

The Committee conducted a fact-finding tour in Owino Ouru Village, and visited the Kenya Metal Refineries (EPZ) Ltd factory and the relevant government health facility. It held a public hearing attended by the petitioners and community members living in the village and received oral evidence from them. Further to the above, the Committee also held a meeting with Mombasa County Health and NEMA officials.

2.3 Deliberative Sessions

In the exercise of its mandate, the Committee held deliberative sessions with the Mombasa County Health Department officials, National Environment Management Authority officials as well as human rights activists relevant to

the matter. The Minutes of these sessions as well as the documents and evidences presented to the Committee are annexed to this report.

2.4 Review of Documents

The Committee reviewed documents and affidavits presented to it by the different parties. The Committee paid particular regard to a Public Complaints Committee (PCC) Report in its review of documents. All other documents tabled by the parties have been annexed to this report.

CHAPTER THREE: COMMITTEE FINDINGS

This section contains summaries of the committee findings during the fact-finding-tour and in deliberative session's relevant parties.

3.1 Mombasa County Health Department Visit

The Committee was met by the Mombasa County Executive Member of Health, the County Officer of Health and NEMA and public health officials in the Mombasa County headquarters on 11th August, 2014. Senator Hassan Omar (Mombasa) and Senator Emma Gertrude Mbura who were to accompany the Committee during the visit were absent with apologies.

3.2 Meeting with Mombasa County Health Department Officials

The Mombasa County Public Health Officials met with the Committee at the Mombasa County Health Headquarters and submitted documents in relation to the Owino Ouru petition. They submitted as follows:

1. Kenya Metal Refineries (EPZ) Limited is a battery-recycling factory that is located in close proximity to Owino Ouru Village. Its operations are alleged to have led to lead-poisoning amongst residents of Owino Ouru, and damage to the surrounding environment. The factory is said to have been closed since January 2014;
The ownership of the factory has been linked to the area Member of Parliament, Hon. Hezron Awiti (Nyali);
2. Accused NEMA officials of working in isolation and failing to involve the public health department during licensing of the factory; and
3. According to Mr. Ndung'u, a Public Health Officer whose jurisdiction covers the affected area, the existence of the factory came to the notice of the public health office in 2008 following public complaints and demonstrations.

At the time, the factory had been licensed by NEMA, but that no clearance had been sought from the public health department. In response to the public

demonstrations, public health officials visited the factory and conducted an inspection visit of the factory on February 24th, 2009 during which the factory was given a set of conditions to comply with.

Findings during the inspection visit of the factory by the public health officials revealed that:

1. The factory had no provision for a well-protected banker for processing and melting raw materials;
2. The sanitary block had been renovated that that the following defects had been noted: defective water cisterns, a broken bowl, and that the entire block was dirty and stained;
3. There was no provision of a pre-treatment facility for surface wash-offs;
4. The standards of cleaning was unsatisfactory with waste matter last disposed off two years ago still piling up in one of the warehouse rooms;
5. There were no approved plans of the premises at the time of inspection;
6. The workers were yet to undergo medical check-up to ascertain lead levels in their blood and urine;
7. The soil, air and water samples were last sampled and analyzed in August 2008 in which no comparisons were given to WHO standards;
8. The factory was undergoing a signage process for fire, accidents and hazardous materials during the inspection;
9. The fire assembly point was in place but was occupied by a heavy duty truck at the time of inspection;
10. The workers were not fully protected against lead contamination with only overalls, gum boots and nose/mouth masks being provided; and
11. The roof of the warehouse had been replaced with new aluminium sheets.

Following the visit, the Public Health Department instructed the factory to cease operations with immediate effect subject to compliance with the following recommendations:

1. Provide a well-protected banker for processing and melting raw materials;
2. Repair the defective cisterns, broken bowl and repaint internal and external walls of the entire sanitary block;
3. Provide a pre-treatment plant for surface wash-offs that contain lead particles;
4. Make and keep the entire warehouse clean and dispose off all the waste matter to the satisfaction of the public health department;
5. Avail approved plans for your premises for scrutiny;
6. The management should take all its factory workers for a medical check up to ascertain their health status in three-month intervals;
7. Regular soil, air and water samples should be taken to competent laboratories, and results availed to the public health department for scrutiny;
8. Ongoing signage for fire exits and hazardous materials to be completed;
9. Provision of a fire assembly point free from any obstructions; and
10. Equip workers with full-protected gear including: helmet, half mask respirators, eye goggles, heavy duty gloves, overalls and safety boots.

A copy of the inspection report and official correspondence to the factory management on the same has been annexed to this report.

Following the said inspection visit, a closure order dated 13th March, 2009 was sent to the Managing Director of the factory. A copy of the same has been annexed to this report.

A key condition for the reopening of the factory was the construction of a bunker for the disposal of slug. The bunker was in deed, constructed by the factory management, but it has subsequently been destroyed by the movement of heavy duty vehicles, and scavengers.

Further to the above, investigations for blood lead levels amongst factory workers revealed high blood lead levels. In addition, of three villagers who were tested for lead poisoning, only one girl was found to have increased lead levels. Subsequent test results following the closure of the factory revealed reduced lead levels.

Subsequent attempts to get more people tested were unsuccessful as a result of public hostility. Further, factory workers were unwilling to be tested further fearing that closure of the factory would ultimately lead to the loss of their livelihoods.

Soil, water and air lead levels were not tested by the public health department due to lack of resources.

The factory remained closed during 2009 to give the management of the factory time to comply with the public health conditions. The Public Health Department conducted subsequent inspection visits on 27th April, 2009, 2nd September, 2009, and 22nd December, 2009.

As per the inspection reports, the factory failed to comply with the conditions set out by the public health department and remained closed.

Responding to public allegations of clandestine, nocturnal operations at the factory, the public health officials stated that the department had conducted various impromptu visits to the factory at night. However, they had not observed any evidence of nocturnal or clandestine operations at the factory.

Following their submissions, the Committee ordered the Mombasa County Health Department to:

1. Carry out a Health Impact Assessment of persons living in the affected village and surrounding areas and street children; and
2. Carry out independent testing of the soil and water and submit a report separately from NEMA.

According to a letter from the Mombasa County Executive Member of Health (annexed herein), the Mombasa County Health Department has complied with the orders and investigations have been conducted as required.

3.3 Meeting with Mombasa County NEMA Officials

The Committee met NEMA officials at the Mombasa County Health Headquarters on 11th August, 2014. They submitted as follows:

1. The factory applied for an Environmental Impact Assessment (EIA) as Metal Refineries EPZ in 2008. An EIA license was issued on 5th February, 2014 (C1983, Ref. 01555);
2. The EIA license was issued on condition that the factory sought clearance from other government agencies, including a license for recycling in accordance with Waste Management regulations. The factory never met these conditions;
3. Due to non-compliance with set out conditions, NEMA ordered the factory closed in 2011. It is not clear however, if a letter was available to that effect;
4. Responding to complaints from the public health department that NEMA had worked in isolation and failed them in the licensing of the factory, NEMA officials asserted that they had consulted all the lead agencies and had submitted a report to the MoH;
5. Following the finding of persons with high blood lead levels, NEMA ordered the closure of the factory in order to carry out a comprehensive environmental audit, including the collection of soil, water and air samples to accredited laboratories for quality control testing

An Environmental Impact Assessment was conducted by the factory at its own cost using experts registered by NEMA for such purposes. The experts used in this case were from a company known as SGS. The Environmental Measurement Report as submitted by SGS has been annexed to this report;

6. The results of the Environmental Measurement Report as submitted by SGS were favorable to the factory; and
7. The factory had changed its original name from Kenya Refineries Limited EPZ to Max Industries at the time of closing. Max Industries did not have the original license to operate.

The Committee sought clarification from the NEMA officials on the following:

1. If a report from the initial Environmental Impact Assessment was available;
2. If NEMA had consulted with other lead agencies, including the Ministry of Health (MOH);
3. If there was a working relationship between the NEMA and public health officials due to an apparent lack of co-ordination between the two offices; and
4. If any mechanisms had been put in place to ensure public participation in the process.

Following the submissions from the NEMA officials, the Committee tasked the NEMA officials to furnish the Committee with the names and contact details of the factory management; to spearhead cleaning up of the environment and to carry out soil and water testing.

3.4 Owino Ouru Village Visit

Owino-Ouru is a low-income settlement of approximately 8000 residents in Mikindani Ward, Jomvu Constituency, Mombasa County. A resident, Ms. Anastasia, who was interviewed by the Committee at a meeting held on 29th

1. Carry out a Health Impact Assessment of persons living in the affected village and surrounding areas and street children; and
2. Carry out independent testing of the soil and water and submit a report separately from NEMA.

According to a letter from the Mombasa County Executive Member of Health (annexed herein), the Mombasa County Health Department has complied with the orders and investigations have been conducted as required.

3.3 Meeting with Mombasa County NEMA Officials

The Committee met NEMA officials at the Mombasa County Health Headquarters on 11th August, 2014. They submitted as follows:

1. The factory applied for an Environmental Impact Assessment (EIA) as Metal Refineries EPZ in 2008. An EIA license was issued on 5th February, 2014 (C1983, Ref. 01555);
2. The EIA license was issued on condition that the factory sought clearance from other government agencies, including a license for recycling in accordance with Waste Management regulations. The factory never met these conditions;
3. Due to non-compliance with set out conditions, NEMA ordered the factory closed in 2011. It is not clear however, if a letter was available to that effect;
4. Responding to complaints from the public health department that NEMA had worked in isolation and failed them in the licensing of the factory, NEMA officials asserted that they had consulted all the lead agencies and had submitted a report to the MoH;
5. Following the finding of persons with high blood lead levels, NEMA ordered the closure of the factory in order to carry out a comprehensive environmental audit, including the collection of soil, water and air samples to accredited laboratories for quality control testing

August, 2014 at Kenyatta International Conference Centre (KICC), in the 4th floor Board Room, reported that the village was established in the 1940's. She herself alleged that she has lived in the village since 1972. No title deed for the land is available.

The committee conducted a public hearing in the village on 12th August, 2014. The Members were met by village elders, community leaders, villagers, human rights activists and local government officials. Senator Hassan Omar (Mombasa) and Senator Emma Gertrude Mbura who were to accompany the Committee during the visit were absent with apologies.

During its visit, the Committee heard the testimonies of various villagers who alleged that their health had been affected by the operations at the factory. A summary of the same has been provided below:

3.4.1 Villager 1: Mr. Alfred Ogola

Mr. Alfred Ogola told the Committee that the village had fought a long battle against the company, and that some of its members had even been imprisoned and beaten. He stated that persons suspected of suffering from lead poisoning had been screened and tested, and that the matter was currently being pursued in court. Records on the same were availed to the Senate Health Committee Secretariat. He linked Hon. Awiti, M.P (Nyali) to the ownership of the factory, stating that the honorable M.P had requested residents to settle their issues with the factory out of court.

He cited the following major health-related complaints arising from operations at the factory: increased cases of respiratory illness; miscarriages; increased child deaths; reduced fertility; lower birth rates and increased cases of mental illness.

3.4.2 Villager 2: Mr. David Mahala

Mr. David Mahala stated that he had suffered numerous life-threatening health-related problems since the opening of the factory. He said that villagers in Owino Ouru started making complaints against the factory to NEMA and

local public health officials in November 2011. He purported that the public health office through Mr. Ndungu, had 'abandoned' them claiming that the factory had high interests. He also accused the area MP and local leaders of being complicit in an attempted cover-up of the issue.

3.4.3 Villager 3: Mama Scholastica

Mama Scholastica stated that son who was born healthy in 2006 and remained well till 2008 when he became sickly. She had taken him to numerous hospitals on diverse dates between 2008 and 2010 without getting any definitive diagnosis or treatment for his illness. She subsequently took her to a mission hospital where his blood lead levels were tested. Initial blood lead levels measured at 28ug/dl, with the latest results showing blood lead levels of 32ug/dl

Note: The upper acceptable limit for blood lead levels in children is 5ug/dl). She stated that her son was due for more tests, but at the cost KSHs. 3000 per test, she was not able to afford it.

3.4.4 Villager 4: Youth

An unidentified youth stated that the situation was not exclusive to the residents of Owino Ouru village and that residents in settlements around similar factories had reported the same complaints.

3.4.5 Villager 5: Youth

An unidentified youth identified himself as one of the villagers who had been criminalized and jailed for protesting against lead poisoning by the factory. He stated that while he had never undergone testing, he felt that his health had been adversely affected following the establishment of the factory.

The factory has not been operational since December 2013.

Believes that the owners and management ran away following the public demonstrations.

3.4.6 Villager 6: Osmas Otieno

He stated that he was born in 1934 and that he had moved to the village in 1990 following retirement. He claimed that emissions from the factory had damaged his roof. He credited Ms. Phyllis Omido with sensitizing and coming to the assistance of the villagers. He also expressed belief that the area MP is complicit in their troubles.

3.4.7 Villager 7: Janet

Janet stated that her child was constantly sickly and that whenever she took the child to a health facility, he/she would be treated for malaria. The child fainted frequently and never responded to treatment. When the child's blood lead levels were tested, they were found to be: 28ug/dl

3.4.8 Village 8: Head of Nyumba Kumi

The Head of Nyumba Kumi stated that emissions from the factory had affected many people. He claimed that the factory used to dump its waste in Mwakirunge dumpsite, and when cows and goats grazed there, they died. He expressed gratitude to Ms. Phyllis Omide who he credited with playing a key role in finding assistance for affected villagers.

He prayed that testing of all the villagers would be availed and called for just compensation of all affected villagers.

The Committee noted that the villagers credited Ms. Phyllis Omido with playing a key role in helping them seek justice against the factory. The Committee also noted that the villagers appeared suspicious of, and hostile towards the public health and NEMA officials.

The Committee advised the villagers to furnish the Secretariat with copies of any documentary evidence they had including court summonses, medical reports etc. Copies of the same have been annexed to this report.

3.5 Visit to the Mikindani Health Centre

The Committee visited Mikindani Health Centre on 12th August 2014. The health center was visited because its catchment area includes Owino Ouru Village. It has an estimated catchment population of 8000.

The Clinical Officer in Charge informed the Committee that the health center receives up to 60 patients per day. He reported that he had seen less than 300 patients from the Owino Ouru village with most presenting with complaints suggestive of upper respiratory tract infections, allergies and diarrhea.

He reported that he had not seen any cases that were specifically related to lead poisoning. On further inquiry however, he clarified he had not suspected lead poisoning in any of his patients, and had thus never screened them for it.

3.6 Visit to the Kenya Metal Refineries (EPZ) Limited Factory

The Committee visited the factory in question on 12th August, 2014 following public allegations of clandestine, nocturnal operations. The factory however, was closed, and lacked signs of activity.

3.7 Meeting with Ms. Phyllis Omido and Other Human Rights Activists

The Committee met with Ms. Phyllis Omido, residents and other human rights activists at a meeting held on 29th August, 2014 at 1100hrs at KICC, 4th Floor Board Room.

During the meeting, Ms. Phyllis who was formerly employed as an administrative manager at the factory, made submissions to the Committee as follows:

1. She was employed in the factory as an administrative manager in 2007/2008 but resigned after three months citing unconscionable actions by the factory management with an impact on the human, animal and environmental health of Owino Ouru;
2. She took the Committee through the history of the factory and provided video evidence that had been compiled by the Human Rights Watch

- group demonstrating graphic evidence of lead poisoning amongst the inhabitants of Owino Ouru village;
3. She had led efforts to sensitize residents of Owino Ouru on the negative impact of the factory on their environment and health. She also led public demonstrations that led to repeated closures of the factory;
 4. She cited the death of three persons in the village, and an increased incidence of miscarriage and impotence amongst residents of Owino Ouru as some of the serious health problems that had resulted from operations at the factory; and
 5. She displayed various official documents including medical certificates and soil-test certificates that were indicative of lead poisoning and environmental pollution.

All documentary evidence as received from Ms. Phyllis Omido has been annexed to this report.

In addition to Ms. Phyllis Omido, the Committee met with members of the Human Rights Watch Group and residents of Owino Ouru. A resident of the village, Ms. Anastasia, who was interviewed by the Committee reported that the village was established in the 1940's. She herself alleged that she has lived in the village since 1972.

3.8 Review of Recommendations of the Public Complaints Committee (PCC) No. 96/2009

The PCC is established under the Environmental Management and Coordination Act (1999) and is mandated to:

1. Investigate allegations or complaints regarding the condition of the environment in Kenya;
2. On its own motion, investigate suspected cases of environmental degradation; and

3. Perform any other functions assigned to it by the National Environment Council.

In the performance of its functions, the PCC investigated claims against Kenya Metal Refineries (EPZ) Limited on 21/01/2009 and 22/01/2009. In the course of its investigation, the PCC relied on on-site visits, consultative forums, photographic documentation, interviews and document review.

3.8.1 PCC Findings

3.8.1.1 Compliance to statutory obligations and government agency actions

1. Kenya Metal Refineries (EPZ) Limited is a lead processing factory whose activities include purchasing of old lead-acid batteries and smelting and refinery of lead and lead alloys;
2. It is located in an industrial area in Mikindani and its physical space is gazette as an EPZ;
3. The factory operated under the EPZ Authority and had a valid license expiring on 12th December, 2009;
4. No approved plans for the premises and the factory layout were available during the PCC's onsite visit;
5. The factory possesses an EIA license dated 5th February, 2008. No public hearing was conducted prior to the licensing of the factory. Following the controversy surrounding the factory, NEMA expressed a desire to form a Technical Advisory Committee to assess the operations of the factory;
6. An Environmental Audit study was carried out by the factory (Ref. No. NEMA/EA/5/2/6836) acknowledged by NEMA on 23/06/2008;
7. The factory had applied for a waste storage license;
8. The factory was ordered closed on June 2008 by the Mombasa Municipal Council Medical Officer of Health;

9. It was later allowed to resume operations on 4th July, 2008 after being found to have met the Mombasa County Council's conditions including the construction of a bunker, proper maintenance of the premises and structures, construction of a proper drainage system, pre-treatment of all generated waste, provision of protective gear for workers and construction of proper cloak rooms.
10. The Ministry of Public Health and Sanitation ordered the closure of the factory on 20/02/2009 citing lack of compliance to set public health and sanitation standards; and
11. In interviews with factory officials, the PCC was informed of incidences of intimidation, fabrications and distortion of facts against the factory.

3.8.1.2 Pollution

1. The PCC team observed evidence suggestive of air pollution i.e corrosion of corrugated iron sheets on the roofs of homes of the residents of Owino Ouru;
2. The factory has been discharging effluent through a hole in their boundary wall into a trench that runs through Owino Ouru village and into the Municipal drainage system. That this effluent posed a significant health risk to human and animal health life; and
3. Lead dust produced from the factory had had a negative impact on the health of workers therein.

3.8.1.3 Mitigating actions by the factory:

1. Installation of: cyclones, a bag house, a scrubber and chimney;
2. Conducted an Environmental Audit (see above) which indicated high levels of lead in the waste water;
3. Construction of an effluent treatment plant to treat and recycle all waste water;
4. Closure of the drain leading to the effluent treatment plant; and
5. Provision of protective gear and standard cloak rooms for workers.

3.8.1.4 Legislative Framework

Legal frameworks relevant to the Owino Ouru case include:

1. Environmental Management and Co-ordination Act (1999);
2. Environmental Management and Co-ordination Act (Environmental Impact Assessment/Environmental Audit) Regulations (2003);
3. Environmental Management and Co-ordination Act (Waste Management) Regulations (2006); and
4. Environmental Management and Co-ordination Act (Water Quality) Regulations (2006);

PCC assessment of compliance on 1-4 above:

- I. The factory failed to comply with the provisions of both the Act and the Regulations;
 - II. No EIA study report was submitted by the project prior to *financing, commencing, proceeding with, carrying out, and executing the project* as required by Section 58 (1) of the Act;
 - III. The factory commenced operations in 2007 and yet it obtained an EIA license in 2008.
5. the Water Act (2002);
 6. the Water Resources Management Regulations (2004);

PCC assessment of compliance on 5 and 6 above:

- I. The factory failed to comply with provisions for the protection of water sources vis a vis the effluents that may be discharged into water sources.
7. Basel Convention on the Control of Trans-Boundary Movement of Hazardous Waste and their Disposal (1989);
 8. Basel Convention on the Technical Guidelines for the Environmentally Sound Management of Lead-Acid Batteries;

PCC assessment of compliance on 7 and 8 above:

- I. Kenya has ratified the Basel Convention and thus has an obligation to apply the technical guidelines mentioned in the Convention in respect to the management of waste lead-acid batteries.

9. Public Health Act;

PCC assessment of compliance on 9 above:

- I. The PCC expressed belief that the provisions of Section 115 can be applied to the factory giving power to the public health officer to declare the factory a nuisance and to shut it down.

10. Physical Planning Act (1995)

PCC assessment of compliance on (j) above:

- I. The Municipal Council of Mombasa failed to enforce the application of an environmental impact assessment study prior to issuance of planning permission and other permits as provided for in Section 38 of the Act.

11. Local Government Act (Repealed); and

12. By-laws of municipal council.

3.8.2 PCC Recommendations:

1. Enforcement of provisions of all relevant legal frameworks by the relevant agencies and government departments including NEMA, the public health department and the Municipal Council of Mombasa, including provisions relating to penalties;
2. Need to streamline the project review/assessment process to include the participation of relevant lead agencies and institutions aside from NEMA;

3. Domestication and making into law the provisions of the Basel Convention Technical Guidelines on the Environmentally Sound Management of Waste Lead;
4. Enhanced surveillance of the factory by the Department of Occupational Health and Safety (Ministry of Labor) to ensure strict compliance with the provisions of the Occupational Health and Safety Act;
5. Constitution of a task force by the (then) Ministry of Environment and Mineral Resources to address the question of effective management of lead waste; and
6. The development of an effective Environmental Policy to ensure that the effective management of hazardous waste is addressed comprehensively.

CHAPTER FOUR: COMMITTEE OBSERVATIONS, DETERMINATIONS AND RECOMMENDATIONS

4.1 Committee Observations

During the fact-finding mission to Owino Ouru Village; in meetings with relevant county officials; and, subsequently in a meeting with human rights activists working in the region, the Committee made the following observations:

1. The concerns of environmental pollution, and specifically lead poisoning amongst residents of Owino Ouru have been a contentious issue that have been reported in various media sources for many years;
2. Serious allegations were made during the course of the Committees' investigation in relation to alleged ownership of the factory by an honorable Member of the National Assembly. The Company Registration certificates provide the names of the shareholders of the factory as follows:
 - I. Gautam Gulshankumar Gambhir; and
 - II. Saniya Gulshankumar Gambhir.

Regardless, the Committee considers the allegations a serious indictment to the honor of Parliament which warrants further investigation;

3. That serious allegations were leveled against the factory management with regards to release of effluent directly into the village, and into public water sources, the implications of which include the possibility of contamination of other inter-connected water sources, including the sea. Livestock in the village were alleged to have died mysteriously after coming into contact with water and waste products from the factory;
4. The presence of similar factories and smelting plants in the coastal region raises legitimate concerns that the magnitude of environmental damage and pollution in Mombasa County may be greater than the petition suggested;
5. That the factory currently appears to be non-operational;

6. The petitioners made attempt to cogently substantiate their prayers in the petition by furnishing the committee with numerous reports and affidavits;
7. There was evidence of general ill-health and lack of well-being amongst the residents of Owino Ouru, especially the children;
8. The NEMA and public health officials were accused by a section of the local community of complacency, irresponsiveness, corruption and disregard of their statutory duties. These allegations could not however be verified by the Committee nor did the residents or petitioners present any prove to substantiate the claims;
9. There appeared to be poor consultation and co-operation between county NEMA and public health officials in their handling of public complaints with regards to the factory;
10. Further inquiry into the actions taken by the following public offices is necessary:
 - I. NEMA
 - II. Public Health
 - III. Export Processing Zone
 - IV. Physical Planner
 - V. Ministry of Water
11. The following factual information is required;
 - I. The EPZ status of the factory.
 - II. If, the Owino Ouru village is within or outside of the industrial/EPZ zone.
12. Further investigation is necessary to establish the levels of lead poisoning to the residents of Owino Ouru and to their environment.

4.2 Committee Determinations

An effective response to the matters raised by the public petition will protect public faith in the integrity, goodwill and commitment of Parliament, and specifically the Senate, to respond to matters of public concern.

To this effect, from the evidence adduced and the observations made, the Committee makes the following determinations on the prayers of the petitioners:

Prayer 1: *Orders to immediately close down and remove or relocate the offending plant from the area;*

Committee Response: The Committee in respect of this prayer conducted investigations and confirmed that the offending plant is no longer operational.

Prayer 2: *Orders to compel the plant and its various owners over the years to pay for:-*

a) The immediate clearing of the environment, including detoxifying and restoring the soil.

Committee Response: The Committee in respect of this prayer has ordered the Mombasa County NEMA officials to conduct an environmental impact assessment of the area as provided for under the Environmental (Impact Assessment and Audit) Regulations, 2003, Legal Notice No. 101 of 2003.

Pending the outcome of the Environmental Impact Assessment, the Committee agrees with this prayer of the petitioner and orders the Ministry of Environment, Water and Natural Resources through NEMA to compel the management of the offending plant to undertake satisfactory measures to mitigate the adverse impact that its operations had on the environment.

b) The replanting of destroyed trees

Committee Response: As determined in (a) above.

c) *The immediate testing of all the residents of Owino-Ouru Village for lead exposure*

Committee Response: The Committee in respect of this prayer has ordered the Mombasa County Health Department officials to conduct a Health Impact Assessment (HIA) of residents in Owino Ouru and surrounding areas.

Pending the outcome of the HIA, the Committee agrees with this prayer of the petitioner and orders the Mombasa County Health Department through the public health department to compel the management of the offending plant to undertake satisfactory measures to mitigate the adverse impact that its operations had on the health of the residents of Owino Ouru.

d) *The detoxification of all infected persons and pets*

Committee Response: As determined in (c) above.

e) *The removal of hazardous waste slug the plant has disposed off over the years and continues to dispose of at the Mwakirunge Dumpsite*

Committee Response: As determined in (a) above.

f) *The testing of all the 'street children' and other persons who scavenge for a living at the dumpsite*

Committee Response: As determined in (c) above.

g) *The immediate and full compensation of all victims*

Committee Response: The Committee determined that any compensation under the right to clean and healthy environment has to be pursued through the courts as clearly stipulated in Article 70 (2) (c) of the Constitution. The Committee advises the petitioners accordingly.

4.3 Committee Recommendations

1. The following government agencies and departments conduct further investigations into the matter and take appropriate action:
 - i. Ministry of Water, Environment and Natural Resources
 - ii. Export Processing Zone Authority
 - iii. Min. of Health (Public Health).
 - iv. Min. of Devolution and Planning.
2. All relevant government agencies and government departments including NEMA, the public health department and the Mombasa County Government enforce the provisions of relevant legal frameworks, including provisions relating to penalties as relates to the matters raised by the petition.
3. The National Government, through the Ministry of Water, Environment and Natural Resources expedite the domestication of international conventions to which Kenya is a signatory with regards to environmental management and protection and waste management.
4. The Ministry of Labor through the Department of Occupational Health and Safety should take measures to ensure strict compliance with the provisions of the Occupational Health and Safety Act in all factories generating hazardous waste.
5. The relevant Committee, the EPZ Authority and the relevant ministry develop measures to mitigate the health and environmental impact on residents of informal settlements established around industrial plants and factories and export-processing zones..
6. The relevant Committee and government agencies undertake a review of the following legal instruments as follows:
 - a) Environmental Policy
 - b) Environmental Management and Co-ordination Act (1999);

- c) Environmental Management and Co-ordination Act (Environmental Impact Assessment/Environmental Audit) Regulations (2003);
- d) Environmental Management and Co-ordination Act (Waste Management) Regulations (2006);
- e) Environmental Management and Co-ordination Act (Water Quality) Regulations (2006);
- f) the Water Act (2002);
- g) the Water Resources Management Regulations (2004);
- h) Public Health Act;
- i) Physical Planning Act (1995) and
- j) County Government Act and relevant county by-laws.

The review will be done with a view to streamlining inter-agency collaboration and cooperation in project review, impact assessment and licensing processes and bringing them in line with current challenges and opportunities in environmental protection, management and conservation.

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

THE SENATE STANDING COMMITTEE ON HEALTH

OWINO OURO PETITION – DAY PROGRAM

TUESDAY, 12 AUGUST, 2014

9:30 am	Meet in the lobby of the Hotel for departure
11.00am-1pm	Meeting with the village elders for briefing
1:00 pm-2:00 pm	LUNCH BREAK
2.00-3:00 pm	Tour to the Owino Ouru village
3.00-4:00 pm	Visit to the Owino Ouru Health Centre
4:30-5:00 pm	Concluding brief by Members on the findings and the way forward.

End of Day

MINUTES OF THE FORTIETH SITTING OF THE STANDING COMMITTEE ON HEALTH HELD ON TUESDAY 17TH MARCH, 2015 IN THE 3RD FLOOR BOARDROOM, KENYATTA INTERNATIONAL CONVENTION CENTRE AT 11.00AM

PRESENT

The Hon. Sen. Mohamed Kuti	- Chairman
The Hon. Sen. Godliver Omondi	- Member
The Hon. Sen. (Prof.) Wilfred Lesan	- Member
The Hon. Sen. Beth Mugo	- Member
The Hon. Sen. Mvita Mshenga	- Member
The Hon. Sen. Catherine Mukiite	- Member
The Hon. Sen. Wilfred Machage	- Member

ABSENT WITH APOLOGY

The Hon. Sen. Zipporah Kittony	- Vice chair
The Hon. Sen. Abdirahman Hassan Ali	- Member

IN ATTENDANCE

Ms. Marya Adjibodou
Ms. Mwanate Shaban
Mr. Peter Muchira
Ms. Carolyn Cheruiyot
Dr. Christine Sagini

SENATE SECRETARIAT

-	Senior Clerk Assistant
-	Clerk Assistant
-	Clerk Assistant
-	Legal Counsel
-	Research Officer

Min. no. SCH/61/2015: Preliminary

The Chairman called the meeting to order at ten minutes past eleven am and led with an opening prayer.

Min. no. SCH/62/2015: Adoption of the Agenda

The Agenda was proposed by Sen. Wilfred Lesan and seconded by Sen. Mvita Mshenga. It adopted as follows:

1. Prayer
2. Adoption of the Agenda
3. **Adoption of the Owino Ouro petition report**
4. **Adoption of the Health and Devolution report**
5. **Other Housekeeping matters**
6. Any Other Business
7. Date of Next Meeting
8. Adjournment

Min. no. SCH/63/2015: Adoption of the Owino Ouro petition report

Members reviewed the Owino Ouro petition report and adopted it after it was proposed by Senator Godliver Omondi and seconded by Senator Mvita Mshenga.

Min. no. SCH/58/2015: Adoption of the Health and Devolution Report

Members reviewed the Health and Devolution report and adopted it after it was proposed by Senator Mvita Mshenga and seconded by Sen. Wilfred Lesan

Min. no. SCH/58/2015: Other House-keeping matters

Members were informed of the upcoming 2nd EAC Health Ministers' and Parliamentarians' Forum and Symposium on Reproductive Maternal Newborn Child and Adolescent Health that will be held in Kampala Uganda from 25th to 26th March, 2015. It was resolved that Senator Wilfred Lesan, Senator Mvita Mshenga and Senator Godliver Omondi should represent the Committee in the symposium.

Min. no. SCH/59/2015: Any Other Business

Members were reminded that they will meet the management of Pumwani Maternity Hospital together with the management of the City Mortuary on Wednesday 18th April, 2015.

Min. no. SCH/60/2015: Date of Next Meeting

The date of the next meeting was set for Wednesday 18th March, 2015 in Shimba Hall, 1st Floor, KICC at 11.00 am. The meeting was then adjourned at 1.20p.m.

Confirmed:
Hon. Senator Mohamed Kuti, MP

Date: 20/3/2015
(Chairman)

A PUBLIC PETITION TO THE SENATE

THE CONSTITUTION OF KENYA

(Articles 1, 2, 3, 4, 10, 12(1), 19, 20, 21, 26, 27, 28, 29, 37, 42, 70, and 119 as read with Articles 93, 94 and 96)

SENATE STANDING ORDERS

(Part XXIV – Public Petitions)

A PETITION FOR THE PROTECTION OF THE ENVIRONMENTAL
AND OTHER CONSTITUTIONALLY PROTECTED
RIGHTS AND FUNDAMENTAL FREEDOMS OF THE RESIDENTS
OF OWINO-UHURU VILLAGE IN MIKINDANI WARD

JOMVU CONSTITUENCY

MOMBASA COUNTY

TO: THE SENATE
KENYATTA INTERNATIONAL CONFERENCE CENTRE
PARLIAMENT BUILDINGS
P. O. BOX 41842-00100
NAIROBI.

Petition tabled
by Sen. Emma
Mbura,
25/03/2014

Health Comm

Approved
5/2/13

(2) Rt. Hon. Speaker

You may approve the
Petition for presentation
① - Senate by the Senator and
S.O. 217(1)(b)
Submitted for transmission to
the Speaker for approval

5/2/13

We, the undersigned citizens of the Republic of Kenya, and who are also taxpayers

Draw the attention of the Senate of the Republic of Kenya to the following:

1. THAT OWINO-UHURU VILLAGE, a low income human settlement hosting a community of approximately 8,000 residents on the outskirts of the Island of Mombasa City, Mikindani Ward, Jomvu Constituency, Mombasa County, has been gravely affected by poisonous lead emissions from entities corruptly and irregularly licensed to establish a lead smelting plant in the human settlement area.
2. THAT the poisonous emissions from the plant have contaminated the soil, drinking water and the air in Owino-Uhuru Village. Even children's playgrounds are laced with toxic dust.

3. THAT lead poisoning is a medical condition in humans and other vertebrates caused by increased levels of the heavy metal lead in the body. Lead interferes with a variety of body processes and is toxic to many organs and tissues including the heart, bones, intestines, kidneys, and reproductive and nervous systems. Lead affects practically all systems within the body. Lead poisoning interferes with the development of the nervous system and is therefore particularly toxic to children, causing potentially permanent learning and behavior disorders.
4. THAT symptoms of high levels of lead poisoning (at or above 80 micrograms per decilitre of blood) include seizures/convulsions, coma, and even death. At levels lower than the 80 micrograms per decilitre of blood, lead causes adverse health effects on the central nervous system, kidneys, and blood cells, leading to abdominal pain, confusion, headache, anemia, and irritability. Lead blood levels as low as 10 micrograms per decilitre can impair mental and physical development.
5. THAT the lead poisoning in Owino-Uhuru Village manifests itself via many symptoms in the general population. They include but are not limited to the following:
 - a. Memory loss;
 - b. Insomnia;
 - c. Delirium/hallucinations;
 - d. Cognitive deficits;
 - e. Slowed/retarded growth in children;
 - f. Declines in mental functioning, mood disorders, irritability, learning difficulties;
 - g. Convulsions, body tremors;
 - h. Headaches, abdominal pain, vomiting, constipation;
 - i. Kidney failure, high blood pressure;
 - j. Male reproductive problems, e.g. reduced sperm count, abnormal sperm;
 - k. Loss of appetite, weight loss, sluggishness, fatigue;
 - l. Body/muscular weakness;
 - m. Pain, numbness, tingling in the extremities;
 - n. Miscarriages, premature births, or babies born with deformities;
 - o. Deaths of the area residents, pets and trees.

6. THAT the following attempts to resolve the matter and/or seek relief have all failed:

- a. Visits to the management of the organisation
- b. Pleas by village elders to the Provincial Administration and others in authority
- c. Pleas to civil society groups
- d. Peaceful demos and marches
- e. Pleas to NEMA and similar authorities

THEREFORE your HUMBLE PETITIONERS PRAY that the Senate of the Republic of Kenya urgently considers forming a SPECIAL COMMITTEE to inquire into the matter with a view to issuing:

1. Orders to immediately close down and remove or relocate the offending plant from the area;
2. Orders to compel the plant and its various owners over the years to pay for:-
 - ▶ The immediate cleaning of the environment, including detoxifying and restoring the soil.
 - ▶ The replanting destroyed trees.
 - ▶ The immediate testing of all the residents of Owino-Uhuru Village for lead exposure.
 - ▶ The detoxification of all infected persons and pets.
 - ▶ The removal of all the hazardous waste slag the plant has disposed off over the years and continues to dispose off at the Mwakirunge Dumpsite.
 - ▶ The testing of all the "street children" and other persons who scavenge for a living at the dumpsite.
 - ▶ The immediate and full compensation of all victims.
3. Any further orders and/or reliefs that the Honourable Senate will deem fit, just and expedient to uphold the Rule of Law and protect the rights and fundamental freedoms of the residents of Owino-Uhuru Village and of other Kenyans under the Constitution of the Republic of Kenya.

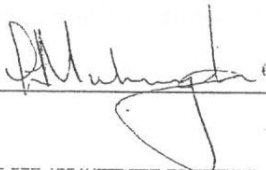
And your **Petitioners** will ever pray

PETITIONER	MAILING ADDRESS OR MOBILE NUMBER	NATIONAL ID NO.	SIGNATURE



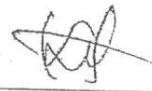

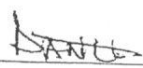


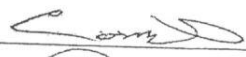

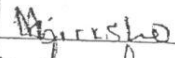

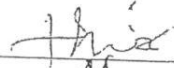
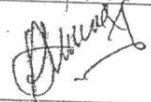
Petition presented by:

HON. EMMA GETRUDE MBURA, Nominated Senator, Mombasa County








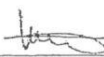
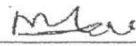




On this 19th Day of November, 2013

Signature: 

And your Petitioners will ever pray

	PETITIONER	MAILING ADDRESS OR MOBILE NUMBER	NATIONAL ID NO	SIGNATURE
1	DAVID MAHALA	0724523981	5469003	
2	NOEL MULAMA	0724930410	22770009	
3	RAPHAEL KILUNDA	0727682260	20708861	
4	GEORGE MUKUNDA	0714813114	27764227	
5	DANIEL KIEMA		9192266	
6	MARGRET WANJIRU	0701104881	12416248	
7	JACOB KIMULI	0711823655	23170264	
8	KOSMA OTIENO OUNDO	—	5433844	
9	COLLINS-M. MWANGI	072534215	24654671	
10	MEDDET. M. VIBIRISHO	0720530052	22976743	
11	FRANCIS JOSEPH	07011172	21458868	
12	HASSAN ALI	—	26023252	
13	ALPHAN MWAGHA	0727800960	25670631	

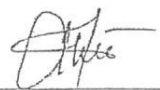
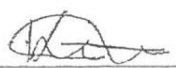
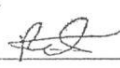


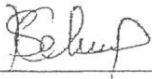

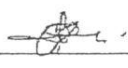

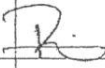


And your Petitioners will ever pray

	PETITIONER	MAILING ADDRESS OR MOBILE NUMBER	NATIONAL ID NO	SIGNATURE
3	CHRISTINE MWENDE	0719568791	26093828	
4	Samuel Mwigye	0724246577	6701425	
5	Joshua Hamu	0720229420	24605725	
6	Rever Kesi Kabi	0725624591	70265992	
7	HASSAN MWERO	0718501600	28318002	
8	ANDREW ONYANGO	0720014735 22834604	22834604	
9	ALBARIUS MWANZIA	0701717291	25174761	
10	VICTOR KAMZALIHA		22819616	
1	MARY RECH ATIGHO	0710176135	26866536	
2	JAMES HASIMUYU	0700895788	29783221	
3	RAMADHAN OTIENO	0728013750	26771828	
4	FRITH K. MUTHAMU	0701-115119	24428507	
5	BENJAMIN K. MUSINGILA	0722991263	11228404	

And your Petitioners will ever pray

	PETITIONER	MAILING ADDRESS OR MOBILE NUMBER	NATIONAL ID NO	SIGNATURE
36	Thobias Muthika	071351116	2468945	Thobias
37	M'BARAKA SULEMAN	0728641392	20856913	SM
38	CYRUS DW/NO	071088074	2499580	CS
39	JOSEPH WANJERO	0729326927	3153598	JB
40	ALMEIDA MODAA	0725836399	5685221	ALMEIDA
41	PAUL KINJOJA	0715596169	23205668	PK
42	ANGELINE AKINYI	0710308789	13195607	AK
43	JACKSON OSEYA	0725822492	5432454	JO
44	SAMUEL OBWAKA	0715630028	23890954	SO
45	JOHN GIAMBO	0727176011	23924724	JO
46	CHARLES OTENO	0714173116	6086446	CO
47	ALEX MURRAY	0716-955-630	24009195	AM
48	VICTOR ONYANGO	0775015088	30238220	VO

And your Petitioners will ever pray

	PETITIONER	MAILING ADDRESS OR MOBILE NUMBER	NATIONAL ID NO	SIGNATURE
9	STEPHAN Otiend	0733171539	28301145	
0	ZURAH KENNETH	0705192347	61407882	
1	Samuel Mwaniki Syengo	0715272588	28853541	Mwaniki
2	DANIEL Mwan	0726564459	28868710	
3	ERIC MISOBO	0713260038	28638706	
4	JACOB MUYOKO	0717493414	24548969	
5	KELVIN KASONZO (Mwazimu)	0729362934	29453157	
6	DENNIS OLIVER	0712821022	25643152	
7	HOMISI	0736488470	34178552	
8	Reuben Musembi	0700285914	31186858	
9	Robbin Juma	0728425818	30781323	
0	JACKSON Kuma	0708948070	29502800	
1	JACKSON AUBWAYA	0727875955 8471568	8471568	




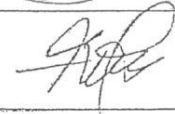

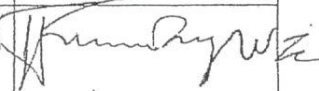

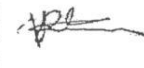

And your Petitioners will ever pray

	PETITIONER	MAILING ADDRESS OR MOBILE NUMBER	NATIONAL ID NO	SIGNATURE
62	TCPISTA MASAHA	0722570650	5378657	TCPISTA
63	SARAH KUSCU MARGRET BABU	24772963 0729326619	24772963	SARAH
64	SIMBA NGUI	0715763415	2271616	SIMBA
65	ANASTACIA NAMBO	0725743254	13195887	ANASTACIA
66	JACKLINE RAZIA	0729362823	31817962	JACKLINE
67	ALEX OLOO	0736759345	30504920	ALEX
68	STEPHEN OUMA	0721250118	25431985	STEPHEN
69	JANET ADHIAMBO ONGIRA	0721677580	9399531	JANET
70	TOPISAR WAMJALA	0701338663	22391616	TOPISAR
71	Geoffrey MURIRA	0736675767	93696743	Geoffrey
72	Joan Amich	0704881194	30608254	Joan
73	WILSON HINZANO	0720976619	23255456	WILSON
74	SIMON NDORO	0717442627	28007359	SIMON

CENTER FOR JUSTICE GOVERNANCE
AND ENVIRONMENTAL ACTION

12 MAY 2015

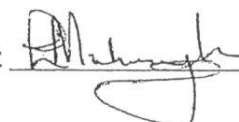
P. O. Box 97379-80112 MOMBASA, KENYA
Email: info@centerforjgea.com

	PETITIONER	MAILING ADDRESS OR MOBILE NUMBER	NATIONAL ID NO	SIGNATURE
14	DERICK MWANGIWEI	0708477696	28482565	
15	Bonface Simba	0714850410	29246828	
16	SIMBA MAKWELE	071401264		
17	MULWA MUMYOKI	0719415277	24168114	
18	VAAATI MUMYOTO	0711737271	24242030	
19	THOMPSON ETIANGATHA	0720023040	20265976	
20	JEREMIAH KADYILI	0705987219	13835262	
21	VALENTINE - KALAMA	0728578028	13198583	
22	Josphat Mutea	070145636	13780167	

Petition presented by:

HON. EMMA GETRUDE MBURA, Nominated Senator, Mombasa County

On this 19TH Day of NOVEMBER, 2013

Signature: 

93. FIDELIS O. ANDUGA 0722461243 6402730 ~~Relig-~~

SHINIKIZO LA UMA KWA BUNGE LA SENETI

KATIBA YA KENYA

(Rubaa ya 1, 2, 3, 4, 10, 12(1), 19, 20, 21, 26, 27, 28, 29, 37, 42, 70, na 119
ikisomwa na rubaa ya 93, 94 na 96)

SHERIA ZA KUENDESHA BUNGE LA SENETI

(Sehemu ya XXIV-Public Petitions)

SHINIKIZO LA KULINDA MAZINGIRA PAMOJA NA HAKI NA UHURU WA WAKAAZI
WA MTA A WA OWINO-UHURU ULIOKO KATIKA WADI YA MIKINDANI ENEO
BUNGE LA JOMVU, COUNTY YA MOMBASA

KWA: BUNGE LA SENETI

JUMBA LA KIMATAIFA LA MIKUTANO

MAJENGO YA BUNGE

SANDUKU LA POSTA 41842-00100

NAIROBI.





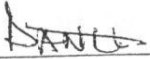

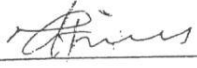
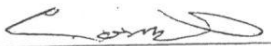

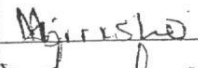

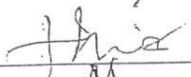
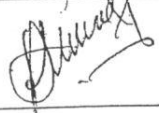
Sisi wananchi wa taifa hili la Kenya, ambao pia ni walipa ushuru, tuliotia sahihi shinikizo hili, tungependa kulijulisha bunge la Seneti yafwatayo.

1. **Kwamba** mtaa wa Owino-UHURU, ambao ni mtaa wa watu wa mapato ya chini unaoishi zaidi ya wakaazi 8,000 uliopo viungani mwa jiji la Mombasa, katika wadi ya Mikindani, eneobunge la Jumvu, katika Kaunti ya Mombasa, wameathirika pakubwa na sumu ya Lead kutoka kwa viwanda fisadi vilivyopatiwa leseni kinyume cha sheria kujenga kiwanda cha kuyeyusha madini ya lead katika eneo la makaazi ya binadamu.
2. **Kwamba** Sumu inayotoka katika kiwanda hicho imeathiri mchanga, maji ya kunywa na hewa katika mtaa huo wa Owino-Uhuru, hata viwanja vya

watoto kuchezea vimejaa vumbi inayotoka katika kiwanda hicho na ni sumu mbaya.

3. **Kwamba** sumu ya lead inaathari za kimatibabu kwa wanadamu na hata wanyama inayosababishwa na ongezeko la madini hiyo ya chuma mwilini. Madini hiyo huitilafiana na viungo mbali mbali mwilini na kuathiri viungo kama vile moyo, mifupa, utumbo, maini pamoja na viungo vya uzazi. Kwakifupi madini ya lead huathiri karibu viungo vyote mwilini na husababisha matatizo makubwa kwa watoto hasa kwa masomo na tabia.
4. **Kwamba** athari za sumu ya lead iwapo itaongezeka katika damu huenda ikasababisha, kuumwa kwa kichwa, tumbo na hata kifo. Kiwango kidogo cha madini hiyo mwilini pia inaweza ikaathiri akili na ukuaji wa kimwili.
5. **Kwamba** madhara ya sumu ya lead katika mtaa wa Owino-Uhuru inadhiirika wazi miongoni mwa wakaazi wa mtaa huo. Miongoni mwa athari za kiafya zinazowakabili kutokana na tatizo hilo ni kama ifwatavyo:
 - a. Tatizo la kusahau (Memory Loss)
 - b. Insomnia
 - c. Delirium/hallucinations
 - d. Cognitive Deficit
 - e. Upungufu wa kasi ya ukuaji miongoni mwa watoto
 - f. Athari za kiakili, athari za kiisia, shida ya kusoma na kujifunza
 - g. Convulsion, body tremors
 - h. Kuumwa kwa kichwa, kuumwa kwa tumbo, kutapika
 - i. Shinikizo la damu mwilini
 - j. Athari za kiuzazi miongoni mwa wanaume kwa mfano upungufu wa manii ama manii isiokua sawa
 - k. Ukoefu wa hamu ya kula, upungufu wa uzito wa mwili, uchovu
 - l. Upungufu wa nguvu mwili
 - m. Uchungu mwilini

And your **Petitioners** will ever pray

PETITIONER	MAILING ADDRESS OR MOBILE NUMBER	NATIONAL ID NO	SIGNATURE
DAVID MAHALA	0724523981	5469003	
NOEL MULAMA	0724930410	22770009	
RAPHAEL KILUNAA	0727682260	20708861	
GEORGE MWINJA	07114813117	27764227	
DANIEL KIEMA		9192266	
MARGRET WANTIRU	0701104881	12416248	
JACOB KIMULI	0711823655	23170264	
KOSMA OTIENO OUNDO	—	5433844	
COLLINS M. MWAGHA	0723372175	24654671	
MEDLEY M. KIBIRISHO	0720530052	22916743	
Twacha Joseph	0701172 21438067	21438068	
HASSAN ALI	—	26023252	
ALPHAN MWAGHA	0727300960	25670631	

- n. Kumwagika kwa mimba miongoni mwa wanawake ama kuzaliwa kwa watoto walio na matatizo ya kiafya
- o. Vifo vya wakaazi pamoja na mifugo yao.





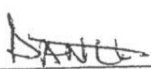

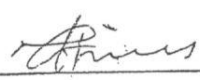
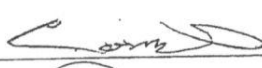

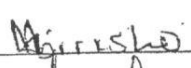
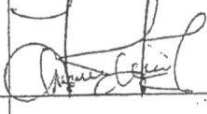

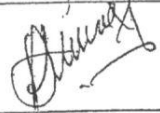
HATUA TULIZOCHUKUA HADI KUFIKIA SASA

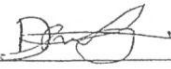


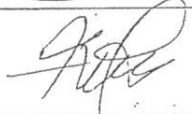

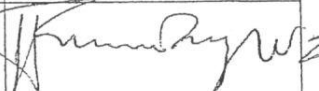

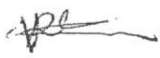

- a. Tumejaribu kutafuta msaada kupitia mashirika ya kutetea haki za kibinaadamu.
- b. Tumejaribu kuzungumza na kamati ya wakurugenzi wa kampuni hiyo.
- c. Tumepeleka malalamishi yetu kwa halmashauri ya utunzaji mazingira nchini NEMA.
- d. Na pia tumetumia haki yetu ya kikatiba kufanya maandamano bila ya mafanikio.

Hivyo bunge la Seneti linashinikizwa na kuombwa kubuni kamati maalumu itakayochunguza swala hilo nkwa lengo la kutoa:

- 1. Amri ya kufungwa kwa kiwanda hicho mara moja ama kukipeleka mahali pengine
- 2. Na kutoa amri kwa wamiliki wa kiwanda hicho kulipia
 - *Usafishaji wa mazingira katika eneo hilo
 - *Upandaji Upya wa miti ilioathirika na sumu inayotoka katika kiwanda hicho
 - *Kupimwa kwa wakaazi wote katika mtaa huo wa Owino Uhuru ili kujua walioathirika kutokana na kiwanda hicho
 - *Kulipia matibabu ya wakaazi wote walioathirika
 - *Kuondoa sumu ambayo imekua ikitupwa na kiwanda hicho katika mtaa wa Owino Uhuru na pamoja eneo la Mwakirunge
 - *Kupimwa kwa familia zinazojitafutia riziki katika jaa la Mwakirunge
 - * Kulipa fidia mara moja kwa waathiriwa wote wa kiwanda hicho.
- 3. Mwisho tunasihi bunge la seneti kuchukua hatua yeyote dhidi ya kiwanda hicho inayoambatana na sheria za taifa hili ili kulinda haki na Uhuru wa wakaazi wa mtaa wa Owino-Uhuru na wakenya wote kwa mujibu wa katiba.

And your **Petitioners** will ever pray


PETITIONER	MAILING ADDRESS OR MOBILE NUMBER	NATIONAL ID NO	SIGNATURE
DAVID MAHALA	0724523981	5469003	
NOEL MULAMA	0724930410	22770009	
RAPHAEL KILUNAA	0727682260	20708861	
GEORGE MUKUNDA	0714813114	27764227	
DANIEL KIEMA		9192266	
MARGRET WANTIRU	0701104881	12416248	
JACOB KIMULI	0711823655	23170264	
KOSMA OTIENO OUNDO	—	5433844	
COLLINS M. MWAKI	0723372175	24654671	
MEDLEY M. VIBIRISHO	0720530052	22916743	
FINCH Joseph	07011172 21438668	21438668	
HASSAN ALI	—	26023252	
ALPHAN MWAGHA	0727300960	25670631	

	PETITIONER	MAILING ADDRESS OR MOBILE NUMBER	NATIONAL ID NO	SIGNATURE
14	DERICK MWANGIWEI	0708477896	28482565	
15	Bonface Simba	0714050410	29246838	
16	SIMBA MAKWELE	071401264		
17	MULWA MUMWOKI	0719415277	24168114	
18	VAATI MUMOTO	0711737271	24242030	
19	THOMPSON ET HANATHA	0720023040	20265976	
20	JEREMIAH KADYILU	0705987219	13835262	
21	VALENTINE - KALAMA	0728578028	13198583	
22	Josphat Mutee	070115636	13780167	





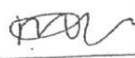


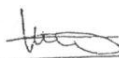

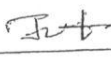
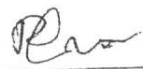


Petition presented by:

HON. EMMA GETRUDE MBURA, Nominated Senator, Mombasa County

On this 19TH Day of NOVEMBER, 2013

Signature: 

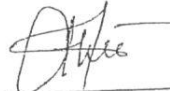

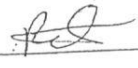


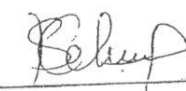


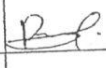


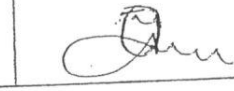
And your Petitioners will ever pray

PETITIONER	MAILING ADDRESS OR MOBILE NUMBER	NATIONAL ID NO	SIGNATURE
CHRISTINE MWENDE	0719568791	26093828	
Samuel Mwigye	0724246577	6701425	
Joshua Mzimu	0720229420	24605725	
Rever KESIKALI	0725624591	70265992	
HASSAN MWERO	0718501600	28315482	
ANDREW CNYANGO	0720014735 22834604	22834604	
ALBARNUS MWANZIA	0701717291	25174761	
VICTOR KIAMZALIKI		22819616	
MAUREEN ATICHU	0710176135	26866536	
JANE HASIMUYU	0700895788	29763221	
RAMADHAN OTIENO	0728013750	26771828	
FAITH K. MUTHAMI	0701-115119	24428507	
BENJAMIN K. MUSINGILA	0722991263	11228404	

And your Petitioners will ever pray

	PETITIONER	MAILING ADDRESS OR MOBILE NUMBER	NATIONAL ID NO	SIGNATURE
36	Theresa Muthika	07135141	24689345	Th
37	M'BARAKA SULEIMAN	0728641392	20856913	SM
38	CYRUS OWINO	071088074	2299580	CA
39	JOSEPH WANJERO	0729326927	3153598	JS
40	AMEIDA MODAA	0725776399	5685221	ALMEDA
41	PAUL KIMWISA	0715596169	23205668	PK
42	ANGELINE AKINYI	0710308789	13195607	AK
43	JACKSON OSEYA	0725822492	5432454	JO
44	SAMUEL OBWAKA	0715630028	23890954	SO
45	JOHN OJAMBO	0727176011	23924924	JO
46	CHARLES OTIENO	0714173116	6084445	CO
47	ALEX MURETA	0716-855640	2809135	AM
48	VICTOR ONYANGO	0775015088	30235220	VO

And your Petitioners will ever pray

PETITIONER	MAILING ADDRESS OR MOBILE NUMBER	NATIONAL ID NO	SIGNATURE
STEPHEN OJENO	0733171539	28301145	
ZURUH KENNETH	0705192347	61407882	
Samuel Mwaniki Syengo	0715272588	28853541	Mwaniki
DANIEL MCHEN	0706564459	28868710	
ERIC MUDDB	0713240038	28658106	
JACOB MUYOKA	0717493414	24548969	
KELVIN KASONZO (Mwalimu)	0729362934	29453157	
DENNIS OLIVER	0712821022	25643152	
HOMISI	0736488470	34178552	
Reuben Musembi	0700285914	31186858	
Robbin Juma	0728425818	30781323	
JACKSON KHEMA	0708948070	29502800	
JACKSON AARUAGA	0727875955 8471568	8471568	

And your Petitioners will ever pray

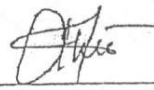
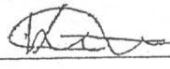



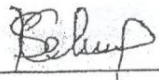

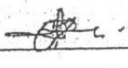




	PETITIONER	MAILING ADDRESS OR MOBILE NUMBER	NATIONAL ID NO	SIGNATURE
36	Theresa Muthika	071351111	24689345	M
7	MBARAKA SULEMAN	0728641392	20856913	SM
8	CYRUS OCU/NO	0710188074	249580	CSA
9	JOSEPH WAMJERO	0729326927	3153598	JB
10	ALMEIDA MODAA	0725876399	5685221	ALMEIDA
1	PAUL KIRIKOR	0715596169	23205668	P
2	ANGELINE AKINYI	0710308789	13195607	AK
3	JACKSON OSEYA	0725822492	5432454	JOSE
4	SAMUEL OBWANA	0715630028	23890954	OBWANA
5	JOHN GIAMBO	0727176011	23924924	JOHN
6	CHARLES OIENO	0714173116	6086416	CH
7	ALEX MURFYT	0716-855630	24009185	AM
8	VICTOR ONYANGO	0775015088	30238220	VO

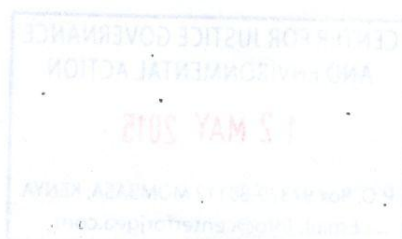
CENTER FOR JUSTICE GOVERNANCE
AND ENVIRONMENTAL ACTION

12 MAY 2015


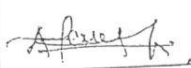










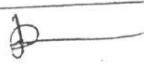
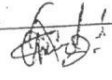




P.O. Box 97379-80112 MOMBASA, KENYA
Email: info@centerforjgea.com

And your Petitioners will ever pray

	PETITIONER	MAILING ADDRESS OR MOBILE NUMBER	NATIONAL ID NO	SIGNATURE
9	STEPHEN DJENDO	0733171539	28301145	
0	ZURUH KENNETH	0705192347	61407882	
1	Samuel Mwaniki Syengo	0715272588	28853541	Mwaniki
2	DANIEL MOTAU	0706554459	28868710	
3	ERIO MUTOBI	0713200038	28638106	
4	JACOB MUYEKE	0717493414	24548969	
5	KELVIN KAJONZO (Mwajimu)	0729362934	29453151	
6	DENNIS OLIVER	0712821022	25643152	
7	HOMISI	0736488470	34178552	
8	Reuben Musembi	0700285914	31186858	
9	Robbin Juma	0728625818	30781323	
0	JACKSON KHEMA	0708948070	29502800	
1	JACKSON AMBWAYA	0727875958 8471568	8471568	



And your Petitioners will ever pray

PETITIONER	MAILING ADDRESS OR MOBILE NUMBER	NATIONAL ID NO	SIGNATURE
Lyub Adeya	07 287552 64	27381419	
WENCH DENNIS	073197250	27873654	
ABRAHAM Oduyambó	0723245063	27688460	
MAMMED HARNISI	075007337660	78587660	
Makoha Aloisi	0716609356	30508723	
Sulome Moggan	0707644623	110508960	
MEJUMA HASONI	0706290959	29688070	
Mr. SAMUNG	0715280751	10752090	
MRS. Judy Samu	11 621	31845964	
Zemaib Salim	0701543053	28205652	
JUMA MWANYALA	07033302000	30217530	
MICHAEL MULEWA	0713303411	23176704	
JOHN MURUVE	071227813	25282999	
JULIUS MUTHEI MBATH		5468969	
Cytha O'Aunga	0718495356	24550456 2404555	
Jacinta David	0711252522	12624884	
Charles Kimba	0725586943	21556397	
WILFRED KAMENCU	0717142396	10486699	

And your Petitioners will ever pray

	PETITIONER	MAILING ADDRESS OR MOBILE NUMBER	NATIONAL ID NO	SIGNATURE
62	TOPISTA MASAKA	0722570650	5378657	Topista
63	SARAH KUSYU MARGRET BABU	24772963 0729326619	24772963	SARAH
64	SIMBA NGUI	0715763415	2271616	SIMBA
65	ANASTACIA NAMBO	0725743254	13195887	Ana
66	JACKLINE RAZIA	0729362823	31817962	Jackline
67	ALEX CLOO	0736759345	30504920	Alex
68	STEPHEN Ouma	0721250198	25431985	Stephen
69	JANET ADHIAMBE ONGIRA	0721677580	9399531	Janet
70	TOPISIAR WANJALA	0701338663	22391616	Topisiar
71	Geoffrey MURIRA	0736675767	23696743	Geoffrey
72	Joan Amich	0704881194	30608254	Joan
73	WILSON HINZANO	0720976619	23255456	Wilson
74	SIMON NDORO	0717442627	28007359	Simon

SENATE COM. MEETING
AT HEALTH DEPARTMENT BOARD ROOM-MOMBASA COUNTY
11-Aug-14

PARTICIPANT'S NAME AFFILIATION

CONTACTS

1	Sen. Githinji Omburi	Senate Health Committee	0721652190
2	Sen. Abdulrahman Hassan	"	0711829888
3	Sen. Dr. Mwangi Mwangi	"	0710442712
4	SEN. MURTA KIKWENGA	"	0721506185
5	Sen. Catherine Muthiga	"	0727678392
6	BIRTI OMAR	C.B.C. HEALTH MOMBASA COUNTY	0702115528 birtya@yahoo.com
7	DR. KHADIJA SEHILU	C.O.H. MOMBASA COUNTY	0722410121 drskhadija@gmail.com
8	JOHN K. MURUGU	SUB COUNTY PUBLIC HEALTH OFFICER	0722940453 ndungu@yahoo.co.uk
9	JOSEPH M. KIMWELI	COUNTY PUBLIC HEALTH OFFICER	0722842722 jkimweli@yahoo.com
10	DR. SHAM O. PUTTA	Ag. County Health Director	07128333601 Shampata@yahoo.com
11	MARIN SHIMBA	S. CEO NEMA MOMBASA	0722671007 shimbajobhimala.com
12	WAKHILA BORE	C.D.E. MOMBASA	0722598437
13	Abel Chirchir	Senate Health Committee (Secretary)	0725052269 amebura@yahoo.com
14	KORNA MORAR	PERSONAL ASSISTANT TO SENATOR EMMA MURRAY	0714592446 meret2009@gmail.com
15	OSINTA N. CHRISPINUS	PERSONAL ASSISTANT SENATOR EMONDE	0716553060 Christinga@gmail.com
16	MARJIA ANJIBODI	SR. CLERK ASSISTANT, SENATE	0720716132
17	FADHAYA IBRAHIM	SNR. SUBJECT - AT - ADMS. I	0722574888 farhayaib@rockefeller.com
18			
19			
20			
21			
22			

Protestors put MP to task over toxic waste

BY LINAH BENYAMA

Angry protestors took to the streets in Mombasa demanding the closure of a retail company claiming it was releasing toxic chemicals and hazardous waste.

The residents of Owino Uhuru had taken to the streets insisting on the immediate closure of the company, which they claimed was emitting lead waste endangering the lives of over 10,000 people.

There was drama at Mikindani in Changamwe District when Environment Assistant minister Ramadhan

Kajembe was involved in a heated exchange of words with the angry the residents.

Kajembe, who is also the Changamwe MP, was petitioned by the angry protestors to explain why the company operated in the neighbourhood.

The standoff began when the MP claimed that he was not aware of the existence of the company, which has been in existence for the last four years.

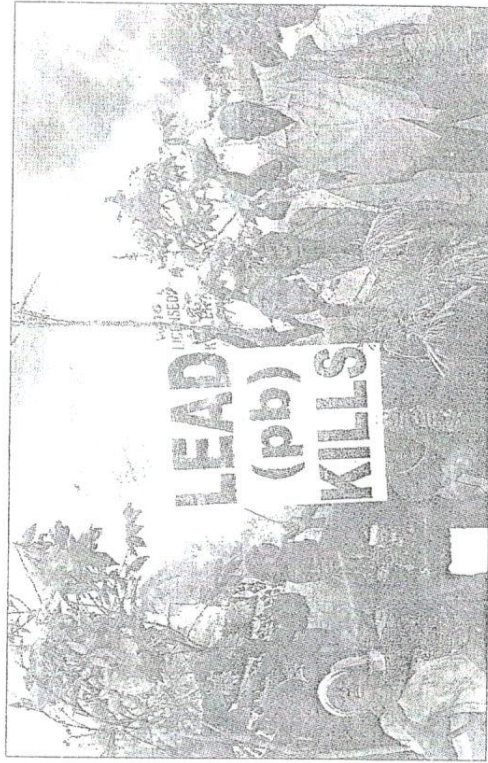
"I am not aware of the said company and if it was emitting toxic and hazardous waste, this is because no-

body had come to inform me," Kajembe argued.

This prompted the mob to yell at the MP and it took the help of his security men to quell the heat.

According to an environmental activist, Ms Phyllis Omidio, children in the area suffer from memory loss and anaemia due to toxic fumes they inhale.

The residents took to the streets carrying coffins, stormed the company and threw the coffins inside but their effort to talk to the owners were futile as the gates remained closed.



Wikindani residents in Changamwe demonstrate against State's failure to close a lead processing factory. (PHOTO: MAARUFU MOHAMMED/STANDARD)

By Daniel Kariuki

Kenya National Highways Authority
Quality Highways, Better Connections

KENYA TRANSPORT SECTOR SUPPORT PROJECT (KTSSP)
PROJECT ID: P124109
TENDER NO. KENHA/334/2011

CONSULTANCY SERVICES FOR A FEASIBILITY STUDY, ENVIRONMENTAL IMPACT ASSESSMENT, SOCIAL IMPACT ASSESSMENT & PREPARATION OF A RESETTLEMENT ACTION PLAN, PRELIMINARY AND DETAILED DESIGN AND PREPARATION OF BIDDING DOCUMENTS FOR THE REHABILITATION OF THE NAKURU - NYAHURURU - NYERI - MARUA ROAD (B5)

REQUEST FOR EXPRESSIONS OF INTEREST

1. This request for expressions of interest follows the General Procurement Notice for this project that appeared in the 'DG Market Publication of 24th September 2010.
2. The Government of Kenya has received a credit from the International Development Association (IDA) to meet the cost of the Kenya Transport Sector Support Project (KTSSP), and intends to apply part of the proceeds of the credit towards eligible payments under the contract for *Consultancy Services for a Feasibility Study, Environmental Impact Assessment, Social Impact Assessment & Preparation of a*

Kenya National Highways Authority
Quality Highways, Better Connections

KENYA TRANSPORT SECTOR SUPPORT PROJECT (KTSSP)
PROJECT ID: P124109
TENDER NO. KENHA/333/2011

CONSULTANCY SERVICES FOR A FEASIBILITY STUDY, ENVIRONMENTAL IMPACT ASSESSMENT, SOCIAL IMPACT ASSESSMENT & PREPARATION OF A RESETTLEMENT ACTION PLAN, PRELIMINARY AND DETAILED DESIGN AND PREPARATION OF BIDDING DOCUMENTS FOR THE REHABILITATION OF THE NAKURU - LORUK SECTION OF THE NAKURU - MARICH PASS ROAD (B4)

REQUEST FOR EXPRESSIONS OF INTEREST

1. This request for expressions of interest follows the General Procurement Notice for this project that appeared in the 'DG Market Publication of 24th September 2010.
2. The Government of Kenya has received a credit from the International Development Association (IDA) to meet the cost of the Kenya Transport Sector Support Project (KTSSP), and intends to apply part of the proceeds of the credit towards eligible payments under the contract for *Consultancy Services for a Feasibility Study, Environmental Impact Assessment, Social Impact Assessment & Preparation of a*

HISTORY, PHYSICAL EXAMINATION AND
TREATMENT

6/6/12

TEMP.

Δ - Osteoarthritis (RR)
Knee - R

PULSE

My Anti-inflammatory

RESP.:

physio
Review 1 yr A

BP.:

MINISTRY OF HEALTH
COAST PROVINCE GENERAL HOSPITAL
RADIOLOGICAL REQUEST

MOH 206

NAME: Almedah Mwondy AGE: 40 SEX: F

Walking ☐ W/Chair ☐ Stretcher ☐ Portable ☐

HOSPITAL NUMBER 101 123191/12
CS 222650

TYPE OF INVESTIGATIONS REQUESTED:

CLINIC WARD

X-ray (R) Knee

APPOINTMENT: TIME:

X-RAY NUMBER

HISTORY OF ALLERGY (YES/NO)

REPORT TO BE SENT TO:

If YES specify

PREVIOUS X-RAY NO.

L.M.P.

OFFICIAL USE ONLY

Is exam still necessary (YES/NO)

No. of Films

DIAGNOSIS:

Charges

BRIEF CLINICAL SUMMARY:

Comment

REQUESTING DOCTOR (PRINT NAME)

RADIOGRAPHER'S NAME

SIGNATURE

SIGNATURE

DATE: 13/11/13

DATE:

X-RAY REPORT

RADIOLOGIST'S NAME: SIGNATURE:

DATE:

15

OSIS & TREATMENT

GANJON CLINIC
COMMUNICABLE
DISEASE CONTROL
PUBLIC HEALTH
P.O. Box 90441, NOMBASA

1981-3

A Vancere Vanc

0/5 to Dafion ibe

DATE:..... CLINICIAN.....

SIGN.....

06/01/2014

REF NO: D819
NAME: DAVID M
AGE/SEX: ADULT/FEMALE
REPORT: PELVIS U/S
REF: PRDH

Reduced left hip joint space and sclerosis of articulating surfaces-see
are features of suggestive of osteoarthritis.


DR EVANS ARITA
SPECIALIST RADIOLOGIST/SONOLOGIST

David Mahan
not
21/11/2023

Hx Pain in the (L) pelvis
(radiates to the thigh)
(L) knee joint pain
(L) numbness

VE ge satisfactory
abdominal
not pale

20B local system not, neurocare

Imp Myalgia & Stiffness
of Early Arthritis

BS - no mps

HR - 135/11

RBS - 10.5 mmol/L

ESR 55 mm/hr

BP - 110/6

He

NB!! Pt ^{gives} Complaints of Ht
Living around the company of
Lead manufacturing.

Note the systole-diastole vari

Plan

- Antibiotics -
- Analgesics.
- Lt hip joint X-ray.
- Pelvic X-ray - AP.
- Lt lateral

27/12/15

Dx Spasm also Arthritis
of left femur

Plan Pelvic x-ray
left Neck femur
AP.

28/1/14

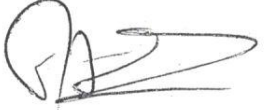
X-ray Refr & - Reveal lateral.
osteoarthritis (L+) Htg dr

Pl, Pain-free oil apply. ~~to~~

(1) 600 Rivotril Forte $\frac{1}{2}$ bid x 2/2

(3) 600 Dolomol $\frac{1}{2}$ bid x 2/2

(7) Caps Oxal $\frac{1}{2}$ bid x 2/2

Review $\frac{1}{D}$ RP 

27

Village Elders
Owino Uhuru Village
Mikindani Location
C/o Chiefs Office
Mombasa

28th May 2009

Hon. John Michuki EGH, MP
Minister for Environment and Mineral Resources
NHIF Building
Nairobi

Dear Hon. Minister,

**Re: Problems with Lead Toxic Pollution by Metal Refineries EPZ
Limited in Mikindani, Changamwe.**

Last week the Public Complaints Committee on the Environment met in Mombasa to discuss the matter of industrial lead pollution affecting the people of Owino Uhuru and the neighboring areas emanating from a battery recycling plant known as Metal Refineries EPZ Limited. During the meeting the proponents of the company organized his workers and compromised some members of the village to appear before the Committee and disrupt anyone who had an opposing view of the factory's pollution. We have knowledge that they compromised and intimidated their own employees to act the way they did

Yesterday, someone from an NGO – the Centre for Environmental Action was talking to us at the village about the dangers of lead poisoning and creating environmental awareness for our people. The factory managers called police and claimed he was causing trouble. The police saw the folly of their complaint and released him. Why would an industrialist worry about what is happening in a neighboring village? This was pure intimidation.

This factory started operating in 2007 WITHOUT following the necessary laws under EMCA Act. It was not until April 2008 that they submitted an Environmental Impact Assessment and a notice was put out in the daily newspaper for the public to comment. Many of our villagers did send in their objections to NEMA but to date no public hearings have been held or any communication received from NEMA. Strangely, Hon. Minister, the company now has the license from NEMA. One then asks the question why did NEMA ask us to contribute yet they never took our contribution into consideration?

We have learnt also the NEMA has set up a Technical Advisory Committee on Lead Smelting operations and this committee examined the proposed plant in Nakuru. We are told that the NEMA has made a decision not to license the operations there because it is too close to populations and food processing industries. Why this one would be allowed which is right in a village of 1000 residents leaves us wondering what is going on.

We are very happy that the Ministry of Public Health and Sanitation closed the factory in April on health grounds. Despite this people are still operating there breaking up batteries and supposedly preparing for smelting to commence. We are therefore confused when we hear that the factory is going to be opened for full production yet the issues that we raised have not been addressed. A clear case of the culture of impunity that Kenyans are all trying to eliminate.

Hon. Minister sir, we hope that your Ministry will not allow polluters go wild endangering public health and defeating your effort of creating clean environments for our people. Let it not be said that during your tenure at the helm of the Ministry, polluters were allowed to expose a whole community to life threatening environmental pollutants by being enabled to break all our environmental laws by the very people who are supposed to enforce them. We kindly request your urgent intervention to preserve the integrity of our laws and ensure everyone plays by the book.

Yours Obedient Citizens,

ON BEHALF OF :

Owino Uhuru Village, Mikindani.

DAVID MATHALA 5469003 PAUL OCHIENG 7774605
JOSEPH WANJERA 3153598 MARGARET MBITHI 234425
MUSEMBE MALOMBE 1012580 TITUS MUTILO 277338
KOSMOS OLENO 543844 ONESMUS MSHALI 9190899
CLOTIN HONO 2286700 GRACE ADISA 10726

Cc: Director, NEMA Nairobi

Chief / DO / OCS Mikindani, Mombasa

Chairman, P C C Nairobi

Provincial Director MOPHS ✓

Provincial Officer NEMA

We have learnt also the NEMA has set up a Technical Advisory Committee on Lead Smelting operations and this committee examined the proposed plant in Nakuru. We are told that the NEMA has made a decision not to license the operations there because it is too close to populations and food processing industries. Why this one would be allowed which is right in a village of 1000 residents leaves us wondering what is going on.

We are very happy that the Ministry of Public Health and Sanitation closed the factory in April on health grounds. Despite this people are still operating there breaking up batteries and supposedly preparing for smelting to commence. We are therefore confused when we hear that the factory is going to be opened for full production yet the issues that we raised have not been addressed. A clear case of the culture of impunity that Kenyans are all trying to eliminate.

Hon. Minister sir, we hope that your Ministry will not allow polluters go wild endangering public health and defeating your effort of creating clean environments for our people. Let it not be said that during your tenure at the helm of the Ministry, polluters were allowed to expose a whole community to life threatening environmental pollutants by being enabled to break all our environmental laws by the very people who are supposed to enforce them. We kindly request your urgent intervention to preserve the integrity of our laws and ensure everyone plays by the book.

Yours Obedient Citizens,

ON BEHALF OF :

Owino Uhuru Village, Mikindani.

<u>DAVID MAHALA</u> ^{10/NO} 5469003	<u>PAUL OCHIENG</u> ^{10/NO} 9774605
<u>JOSEPH WANJERU</u> 3153598	<u>MARGARET MBITHI</u> 234425
<u>MUSEMBE MALOMBE</u> 1012580	<u>TITUS MUTIO</u> 2773385
<u>KOSMOS OTENO</u> 543844	<u>ONESMUS MSHILI</u> 2190897
<u>JOHN HONO</u> 2236700	<u>GRACE ADISA</u> 107262

Cc: Director, NEMA Nairobi

Chief / DO / OCS Mikindani, Mombasa

Chairman, P C C Nairobi

Provincial Director MOPHS

Provincial Officer NEMA

REGIONAL

FORM EPD (3)



REPUBLIC OF KENYA

EXPORT PROCESSING ZONES AUTHORITY

EXPORT PROCESSING ZONE ENTERPRISE LICENCE

Licence No.: ENT/0964

Licence

Nº 000964

IN PURSUANCE OF THE EXPORT PROCESSING ZONE ACT
(Cap. 517 of the Laws of Kenya)

Whereby License METAL REFINERY EPZ LTD.

Applicant's Name

POST OFFICE BOX NUMBER 92828 - 80102, MOMBASA

Registered Address

as Licensed Export Processing Zone Enterprise as from

13TH DECEMBER, 2008

TO

12TH DECEMBER, 2009

Date

PLOT NO. MN/V/1707 - PENGUIN PAPER & BOOK EPZ LTD. - MOMBASA

Place of Manufacturing

product(s) specified hereunder subject to conditions attached herewith:

Product (5): LEAD AND LEAD ALLOYS

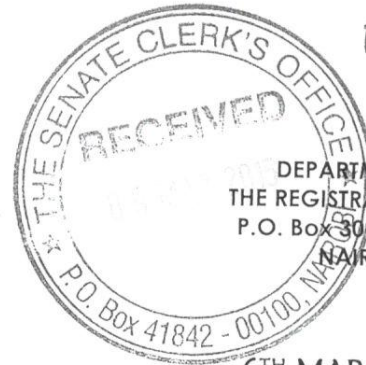
~~XXXXXXXXXX~~

DECLARATION

ON

Signature

Telegrams: "INTESTATE", Nairobi
Telephone: Nairobi 227461
Please address all communications to:
THE REGISTRAR -GENERAL.



Manga

DEPARTMENT OF
THE REGISTRAR GENERAL
P.O. Box 30031- 00 100
NAIROBI

Our Ref : CR. 13 C. 155225
Your Ref : SEN/SCH/CORR/OO/2015(2)

6TH MARCH 2015

PARLIAMENT, OFFICE OF THE CLERK
OF THE SENATE
P.O. BOX 41842-00100
NAIROBI

Dear,

RE: KENYA METAL REFINERIES EPZ LIMITED

The above matter refers and your letter dated 26th February 2015.

The company was registered on 27th May 2008 as registration number C.155225.

According to the latest annual return in the file dated 18th January 2013, the Directors/ shareholders' details are as follows:

<u>Director</u>	<u>Address</u>	<u>Nationality</u>	<u>Shares</u>
Gautam Gulshankumar Gambhir	D-938 New Friends Colony New Delhi-110065, India	Indian	12.950
Saniya Gulshankumar Gambhir	62/42 West Punjab Bagh New Delhi-110026, India	indian	1,050
	Total		14,000

The Company Secretary of the company is Mombasa Company Secretaries.

The Registered office is:

PLOT NO LR.654/MN/V, 1790 MN/V
OFF MOMBASA NAIROBI ROAD, CHANGAMWE
MOMBASA
P.O. Box 92076-80102
MOMBASA

Yours faithfully,

MARGARET WANGU
STATE COUNSEL,
FOR: REGISTRAR OF COMPANIES.

REPUBLIC OF KENYA



Telegraphic Address
'Bunge', Nairobi
Telephone 2848000
Fax: 2243694
E-mail: csenate@parliament.go.ke

Clerk's Chambers
The Senate
Parliament Buildings
P. O. Box 41842 -00100
Nairobi, Kenya

PARLIAMENT
OFFICE OF THE CLERK OF THE SENATE

Our Ref: SEN/SCH/CORR/OO/2015 (2)

Date: 26th February, 2015

Ms. Bernice Gachegu,
Registrar General,
Office of the Attorney General & the Department of Justice,
P.O. Box 40112-00100

NAIROBI

Dear *Madam,*

**RE: REGISTRATION CERTIFICATE, AND LIST OF DIRECTORS
KENYA METAL REFINERIES (EPZ) LIMITED**

The above matter refers.

The Senate Standing Committee on Health is established under Standing Order 208 (3) to "consider all matters relating to Medical Services, Public Health Sanitation".

The committee is in receipt of a petition, tabled in the Senate on the 2 March, 2014, served by the villagers of Owino-Ouro village in Mikindani w Jomvu constituency, Mombasa county. The Petition states that the neighbor Metal Refinery EPZ Ltd. has been polluting the environment with its waste emission. This waste emission has contaminated the soil, drinking water and the air. As a consequence, the residents of Owino-Ouro village are complaining that the same has led to health complications.

It is in light of this petition that the Standing Committee on Health visited the village in question and the mentioned plant, to enable it make an objective assessment and informed recommendations.

The said factory is situated along the Mombasa-Nairobi Highway on Number. 1707 SECT/V/MN/MIKINDANI/MOMBASA.

The purpose of this letter therefore is to request your office to:

1. Clarify the ownership of said factory;
2. Avail a copy of the registration certificate;
3. Avail a copy of the list of directors; and
4. Provide any other information that you may consider useful as pertains to the matter above.

Ms. Marya Adjibodou, (0722) 716132 is the Clerk to the Committee and is responsible for facilitating this matter.

Yours

truly,



**J. M. NYEGENYE, CBS,
CLERK OF THE SENATE**

REPUBLIC OF KENYA



Telegraphic Address
'Senate', Nairobi
Telephone, 020-2848000
Fax: 2243694
Email: csenate@parliament.go.ke

Clerk's Chambers
The Senate
Parliament Buildings
P. O. Box 41842 -00100
Nairobi, Kenya

PARLIAMENT
OFFICE OF THE CLERK OF THE SENATE

Ref: COS/GEN/CORR/2015/051

Date: 13th March, 2015.

The Registrar of Companies,
Department of the Registrar General,
P. O. Box 30031-00100
NAIROBI

Attn: Ms. Margaret Wangu,

Dear *Madam,*

RE: KENYA METAL REFINERIES EPZ LIMITED.

I acknowledge with thanks receipt of your letter Ref. No. CR.13 C. 155225 dated 6th March, 2015 regarding the above subject matter.

The contents of your letter have been noted. I have forwarded the matter to the Standing Committee on Health for its consideration and further action.

Ms. Marya Adjibodou, Senior Clerk Assistant (0722716132) is the Clerk to the Committee and the officer responsible for facilitating this matter.

Yours *truly,*

J. M. NYEGENYE, CBS,
CLERK OF THE SENATE.



No. C. 126560

CERTIFICATE OF INCORPORATION

I hereby Certify, that—

METAL REFINERY BPZ LIMITED.....

is this day Incorporated under the Companies Act (Cap. 485) and that the Company is LIMITED.

Given under my hand at Nairobi this SEVENTEENTH .. day

of JULY Two Thousand AND SIX



Kenya Revenue Authority

Customs Services Department

Ref; HQ/EPZ/1

M/S Metal Refinery EPZ Limited

P.O Box 38521, Parklands 00623

NAIROBI.

Dear Sir /Madam,

RE : EPZ FACTORY CODE NUMBER.

Kindly be informed that your company has been allocated EPZ factory Code number ZMSA/139.

Please note that it is mandatory for you to quote this code number in all your transactions with the Customs Services Department especially in the cargo clearance processes.

You are at liberty to contact the undersigned for any clarification or further information.

A handwritten signature in black ink, appearing to read 'R.T. Iliev', with a long horizontal line extending to the right.

For: COMMISSIONER OF CUSTOMS SERVICES

4

25



Application Reference No. PR/1985

Registration No. 0001375

For official use

NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY (NEMA)

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT
ENVIRONMENTAL IMPACT ASSESSMENT LICENCE

This is to certify that the Project Report/Environmental Impact Assessment Study Report received from
METAL REFINERY EPZ LIMITED (name
of individual/firm) P.O. BOX 92828-241710, MOMBASA (address)
submitted to the National Environment Management Authority in accordance with the Environmental Impact
Assessment & Audit Regulations regarding PROPOSED METAL REFINERY EPZ LIMITED
(title of project) whose objective is to carry on SMELTING AND REFINERY OF LEAD AND LEAD
ALLOYS
(briefly describe purpose) located
at PLOT L.R. NO. 1707, SECTION V, MN, MOMBASA (locality and district)
has been reviewed and a licence is hereby issued for implementation of the project, subject to attached
conditions.

Dated this 5TH day FEB. of 2008.

Signature 

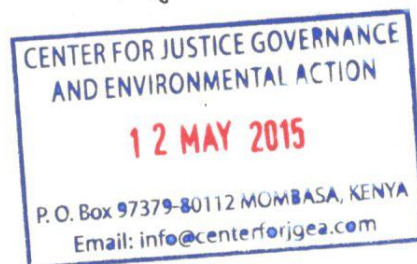
(SEAL)


Director General
The National Environment Management Authority

CONDITIONS OF LICENCE

1. This licence is valid for a period of 24 MONTHS (time within which the project should commence) from the date hereof.
2. The Director-General shall be notified of any transfer/variation/surrender of this licence.

37



PCC COMPLAINT NO. 96/2009

AN OWN MOTION INVESTIGATION INTO THE OPERATIONS OF THE METAL REFINERIES COMPANY LIMITED, A "LEAD WASTE PROCESSOR" IN MOMBASA DISTRICT IN THE COAST PROVINCE THAT HAS HAD ADVERSE ENVIRONMENTAL AND HUMAN HEALTH IMPACTS

RECOMMENDATIONS OF THE PUBLIC COMPLAINTS COMMITTEE

I: INTRODUCTION AND BACKGROUND

The Public Complaints Committee (hereafter, the Committee or the PCC) is established under the Environmental Management and Co-ordination Act of 1999 (hereafter, the EMCA) at sections 31 through 36 to:

- a) Investigate allegations or complaints regarding the condition of the environment in Kenya;
- b) On its own motion, investigate suspected cases of environmental degradation; and
- c) Perform any other functions assigned to it by the National Environment Council (hereafter, the Council or the NEC).

The Committee then prepares a report of its findings and recommendations thereon and submits the same to the Council.

In the performance of its functions, the PCC investigated allegations and complaints against the Metal Refineries Company Limited (hereafter, the respondent or MRL) regarding its operations. These allegations had been raised by the residents of *Owino Uhuru* Village (hereafter, the village) in Mombasa during a two-day stakeholders' forum held at the Mombasa Polytechnic University College on 21/01/09 and 22/01/09.

In the last two years, there has been a mushrooming of scrap lead acid battery smelters in Kenya who are apparently avoiding the imposition of a 20% suspended duty on the export of scrap lead acid batteries. They are now either removing the plastic covers of the scrap battery so that their exports can not be defined as scrap batteries under the tariff. They are also setting up crude lead smelters to obtain raw blocks of lead for export and avoid the duty. This has also resulted in the growth of scrap dealers who crudely smelt lead for export avoiding the duty. This poses a major health and environmental hazard.

Metal Refinery EPZ Limited is located at Mikindani in the Kilindini District of Coast Province on Plot No. 1707/SECT/V/MN/MIKINDANI/MOMBASA situate along the Mombasa – Nairobi highway next to Corrugated Sheets Limited. The company collects old used dry batteries, separates the lead product and recycles them. The company smelts lead containing electrodes and lead carbon compounds found in the battery. The smelting is done in a rotary furnace at high temperatures of about 1000° C. The fluid like substance produced contains lead and other impurities and is therefore refined further to get a pure lead product.

II: NATURE OF THE COMPLAINT

The residents of *Owino Uhuru* Village in *Mikindani* complained that the Metal Refineries Limited factory located near the village was having an adverse impact on their health and the built up environment in the village. They alleged that the factory was a manufacturer of lead-acid batteries and that it had failed to properly manage its waste, both solid and liquid, and its gaseous emissions. This failure had led to the pollution of the air, and water sources in and around the village and that this had caused severe health problems in the village. They also alleged that the emissions from the factory had corroded the corrugated iron sheet roofs of their homes.

III: PROCESS OF INVESTIGATION

In the course of its investigation, the PCC relied on the following methods:

- (a) On-site visits;

CENTER FOR JUSTICE GOVERNANCE
AND ENVIRONMENTAL ACTION

2 12 MAY 2015

P. O. Box 97379-80112 MOMBASA, KENYA
Email: info@centerforjgea.com

Photographic documentation: The PCC recorded this investigation both in writing and by taking digital photographs at the factory as well as at *Owino Uhuru Village*. Some of these photographs will feature in these recommendations.

Interviews:

During this investigation, the PCC conducted interviews with the following officials of MRL:

1. Munel Shah, Operations Manager
2. F. Borali, Accountant
3. Rahul N., in charge of production

Mr. Shah stated that the factory started operations in 2007 and that it is a lead processing factory. Its activities include purchasing old lead-acid batteries from waste battery dealers, separation of their parts, cleaning them, feeding them into the smelter, packaging them and exporting the finished product out of the country. It deals with smelting and refinery of lead and lead alloys.

He stated that the factory has cooling towers, cyclones, and machines for lead processing. MRL is currently not in operation because it doesn't have the raw material at hand. These include old batteries which, he added, were very scarce at the moment.

The Lead-processing was summarized as follows:

Rotary furnace → Hot chamber → Cooling towers → Cyclone → Bag house → Chimney

Mr Shah added that the chimney is 80 feet from the ground. There are no waste emissions from the chimney. He stated that there are ponds where it settles down and is filtered. Cleaning is done using water and chemical flakes. Weighing is then done. The empty battery casings are cleaned then packed. The remains of the battery are then crushed.

MRL has a soak pit where they pour the waste water. It is carried in buckets and is poured into the soak pit. This waste water also goes into the drainage system. Chemicals used for treatment are soda ash and caustic soda.

- (b) Consultative forum;
- (c) Photographic documentation;
- (d) Interviews; and
- (e) Document review.



On-site visits: The PCC conducted on-site visits to the factory on 24/01/09 and 20/05/09. During these visits, the PCC conducted interviews with officials of the company, took photographs within and around the factory premises, and made certain observations which will form the subject of the PCC's findings in this document.

Consultative forum: The PCC convened a consultative forum¹ at the Mombasa Town Hall on 20/05/09 to address the concerns of the parties to this investigation. During this forum, the following matters were raised by the participants who included residents of *Owino Uhuru*, officials from MRL, the Municipal Council of Mombasa and NEMA:

- (i) Whether MRL possessed the relevant permits and licenses to operate;
- (ii) Whether MRL had complied with the requirements of the Public Health Officer of Mombasa regarding:-
 - (a) Safety,
 - (b) Cloak rooms for the workmen, and
 - (c) Waste management.
- (iii) What the operations of MRL actually entail;
- (iv) How long the factory has been in operation;
- (v) Whether the company had complied with all legal environmental requirements;
- (vi) Whether NEMA, and other government and local authority agencies, had exercised their mandates fully in regard to this factory;
- (vii) Why the factory was shut down and under what circumstances it was allowed to re-open;
- (viii) What the impacts of the factory had been on the residents of the village;
- (ix) How MRL had reacted to the allegations made against it;
- (x) Whether waste generated by lead-waste processing factories can be managed effectively; and
- (xi) What the way forward would be.

¹ A complete list of the participants will be found as an annex at the end of this document.

Maintenance of the machines is done every week. Workers are issued with personnel protective equipment (PPEs).

The factory has carried out an EA study (Ref. No. NEMA/EA/5/2/6836), acknowledged by the National Environment Management Authority (NEMA) on 23/06/08. MRL was ordered closed in 2008 by the Medical Officer for Health (Mombasa Municipal Council) and were required to do cleaning of the factory.



Fig 1: Crushed batteries at the site

On 30/05/09, the Chairman of the PCC and one Research Assistant traveled to the City of Mombasa to address a legal matter related to allegations that had been made against the PCC in relation to this investigation. While in Mombasa, they engaged with the following persons:

- (a) Ahmed Abdulrazak, MRL
- (b) Phylis Omido, MRL
- (c) Feroz Ahmed, MRL
- (d) Samir Mody, MRL
- (e) Manan Shah, MRL
- (f) The Deputy OCS, Changamwe Police Station
- (g) Sergeant Kimutai, Changamwe Police Station
- (h) Joseph Muthee, Deputy OCPD, Urban Police Station



The PCC Chairman recorded a statement at the Changamwe Police Station clarifying that the PCC had not authorized anyone to act on its behalf in regards to matters connected to the MRL investigation. The statement further clarified that when the PCC held its consultative forum on the 20/05/09, the residents of *Owino Uhuru* Village were not barred from participating in the forum; indeed, four of their representatives were allowed to participate and contribute during the proceedings.

In its interview with the MRL officials, the PCC was informed of incidences in which they alleged that they were being intimidated with regard to their operations. The MRL representatives explained in detail that the intimidation included fabrications and distortions as well as the presence of unknown vehicles in and around their premises. They stated that these activities had gone on for at least two days and they had reported the matter to the Changamwe Police Station. They stated that they were dissatisfied with how the matter had been handled by the police.

Document review: The PCC had occasion to review the following documents in relation to this investigation:

- (a) The Laws of Kenya
- (b) The Basel Convention on the Transboundary Movement of Hazardous Wastes and their Disposal, 1989
- (c) The Basel Convention Technical Guidelines for the Environmentally Sound Management of Waste Lead-acid Batteries
- (d) An Environmental Audit report (Ref. No. NEMA/EA/5/2/6836)
- (e) A report from the Ministry of Public Health & Sanitation (Ref. No. ADM/3/5/59/ dated 07/05/09)
- (f) A report from the Ministry of Public Health & Sanitation (Ref. No. ADM/3/5/59/26 dated 26/02/09)
- (g) A 'Closure Order' from the Ministry of Public Health & Sanitation (Ref. No. MPHS/DC/1/2 dated 13/03/09)

CENTER FOR JUSTICE GOVERNANCE
AND ENVIRONMENTAL ACTION

12 MAY 2015

P. O. Box 97379-80112 MOMBASA, KENYA
Email: info@centerforjgea.com

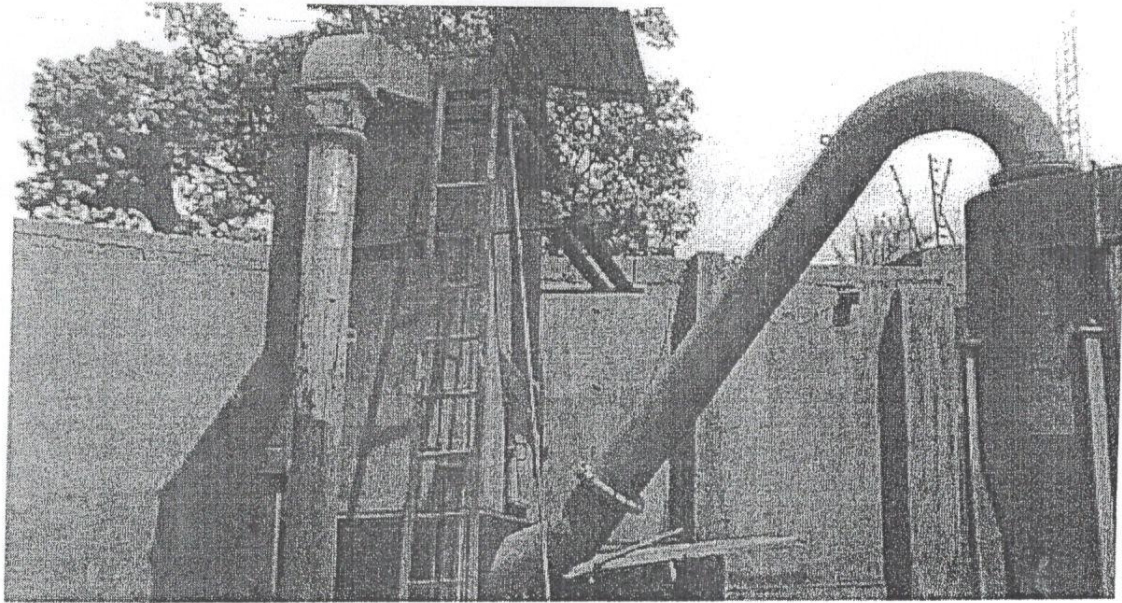


Fig 2: Equipment at the factory

CENTER FOR JUSTICE GOVERNANCE
AND ENVIRONMENTAL ACTION
12 MAY 2015
P. O. Box 97379-80112 MOMBASA, KENYA
Email: info@centerforjgea.com

IV: FINDINGS

During this investigation, the PCC collected valuable information and insights regarding the complaint, from the complainants, the respondents and other parties. In light of this, the PCC identified the following issues for determination:

- (a) What are the activities or operations of the MRL factory? For how long has the factory been in operation?
- (b) Does the factory, or has the factory, possess or possessed the relevant licenses and permits?
- (c) What have been the impacts of the factory and how have they impacted upon the environment and its neighbours?
- (d) What has been the response of the relevant regulatory agencies, government departments and local authority?
- (e) What has the factory done to mitigate its impacts?
- (f) Particularly, is the smoke from the factory responsible for incidences of tuberculosis (and other respiratory diseases) and involuntary termination of pregnancies in *Owino Uhuru Village*?
- (g) Is the factory located at an appropriate site?

(a) Activities or operations of the Metal Refineries Limited factory and how long has it been in operation

- 1) The MRL factory is a lead processing factory. Its activities include purchasing old lead-acid batteries from waste battery dealers, separation of their parts, cleaning them, feeding them into a smelter, packaging them and exporting the finished product out of the country. It deals with smelting and refinery of lead and lead alloys. Mr. Shah admitted that the factory has been in operation since 2007.
- 2) The factory had been discharging effluent from its premises through a hole in their boundary wall into a trench that runs through Owino Uhuru Village and ended up in the Municipal drainage system.

(b) Does the factory, or has the factory, possess or possessed the relevant licenses and permits?

- 1. MRL possessed an EIA license dated 5th February, 2008, it was however signed for the Director General, NEMA. Mr. Shimba had informed the team

that the EIA had followed the normal procedure. However there had not been a public hearing during the process. MRL had also done an Environmental Audit (EA) which was submitted to NEMA on 23rd June, 2008 (EA/5/2/6836). MRL has applied for waste storage license.

2. The MRL operates under the EPZ authority. Mr. Itegi of the EPZ Authority informed the team that the area where MRL is located had been gazetted as an EPZ. MRL had a valid license from the EPZ authority expiring on 12th December, 2009. However the approved plans for the premises and the factory lay-out were not availed.

(c) What have been the impacts of the factory upon the environment and its neighbours?

- 1) Smoke from the factory is responsible for the corrosion of corrugated iron sheets on the roofs of the homes of the residents of *Owino Uhuru* Village. This fact was admitted to by officials of MRL at the 20/05/09 consultative forum and subsequent on-site visit the same day.
- 2) The smoke from the factory is a source of air pollution. This has significantly lowered the quality of air enjoyed in and around the village and has had adverse health impacts on residents of *Owino Uhuru* Village, including, respiratory diseases.
- 3) Effluent from the factory that had been directed through the wall in the factory and directed by way of a trench to the municipal drainage system posed a significant health risk to humans and animals alike who may have come into contact with it. This risk increases exponentially if the effluent so carelessly discharged was contaminated with Lead.
- 4) The lead dust produced from the factory operations would have a negative impact on the health of the workers therein

(d) What has been the response of the relevant regulatory agencies, government departments and local authority?

- 1) NEMA had approved an EIA study report and issued a license to the factory on 05/02/08 and also acknowledged receipt of an EA report on 23/06/08 (ref. No. NEMA/EA/5/2/6836). Because of the current controversy surrounding the factory,

that the EIA had followed the normal procedure. However there had not been a public hearing during the process. MRL had also done an Environmental Audit (EA) which was submitted to NEMA on 23rd June, 2008 (EA/5/2/6836). MRL has applied for waste storage license.

2. The MRL operates under the EPZ authority. Mr. Itegi of the EPZ Authority informed the team that the area where MRL is located had been gazetted as an EPZ. MRL had a valid license from the EPZ authority expiring on 12th December, 2009. However the approved plans for the premises and the factory lay-out were not availed.

(c) What have been the impacts of the factory upon the environment and its neighbours?

- 1) Smoke from the factory is responsible for the corrosion of corrugated iron sheets on the roofs of the homes of the residents of *Owino Uhuru* Village. This fact was admitted to by officials of MRL at the 20/05/09 consultative forum and subsequent on-site visit the same day.
- 2) The smoke from the factory is a source of air pollution. This has significantly lowered the quality of air enjoyed in and around the village and has had adverse health impacts on residents of *Owino Uhuru* Village, including, respiratory diseases.
- 3) Effluent from the factory that had been directed through the wall in the factory and directed by way of a trench to the municipal drainage system posed a significant health risk to humans and animals alike who may have come into contact with it. This risk increases exponentially if the effluent so carelessly discharged was contaminated with Lead.
- 4) The lead dust produced from the factory operations would have a negative impact on the health of the workers therein

(d) What has been the response of the relevant regulatory agencies, government departments and local authority?

- 1) NEMA had approved an EIA study report and issued a license to the factory on 05/02/08 and also acknowledged receipt of an EA report on 23/06/08 (ref. No. NEMA/EA/5/2/6836). Because of the current controversy surrounding the factory,

NEMA officers expressed a wish to constitute a Technical Advisory Committee to assess the operations of the factory.

- 2) The Municipal Council of Mombasa had ordered the closure of the factory in June 2008 and later on allowed it to re-open on 04/07/08 after it had met the Council's requirements which included the construction of a bunker, proper maintenance of the premises and structures, construction of a proper drainage system, pre-treatment of all waste generated in the factory, provision for PPEs to the workmen and construction of proper cloak-rooms for the work men.
- 3) The Ministry of Public Health and Sanitation Services ordered the closure of the factory on 20/02/09 because it did not meet the required standards for public health and sanitation and that it still lacked proper cloak-rooms for the workmen, workmen were not provided with proper Personal Protective Equipments, and that the factory did not pre-treat its waste.

(e)What has the factory done to mitigate its impacts?

1. The installation of: cyclones, bag house, a scrubber and a chimney which was over 20 feet long in height.
2. Samples of drinking water, air emissions and waste water have been taken by SGS for testing with a view of finding out their levels of emissions and making improvements where needed. The first reports had indicated that their waste water contained high levels of lead as compared against the World Health Organisation (WHO) standards.
3. MRL have Constructed an effluent treatment plant to treat all their waste water within their premises and then recycle the treated water for their operations. The drain leading to the effluent treatment plant which had been open has now been closed.
4. MRL promised that water will be sprinkled in their compound every two hours during operations to curb lead dust when they resume operations.
5. The workers have been supplied with Personal Protective Equipments which include helmets, dust masks and gloves; and cloak rooms with cabinets constructed for their use.

- f). Particularly, is the smoke from the factory responsible for incidences of tuberculosis (and other respiratory diseases) and involuntary termination of pregnancies in *Owino Uhuru Village*?

From the consultations held during the investigation, it emerged that the complaints are not clear and require further expert investigation.

- g). Is the factory located at an appropriate site?

MRL is located in an industrial area in Mikindani. The physical area of MRL is gazetted as an EPZ and MRL was issued with a valid license both for the developer and the proprietor.

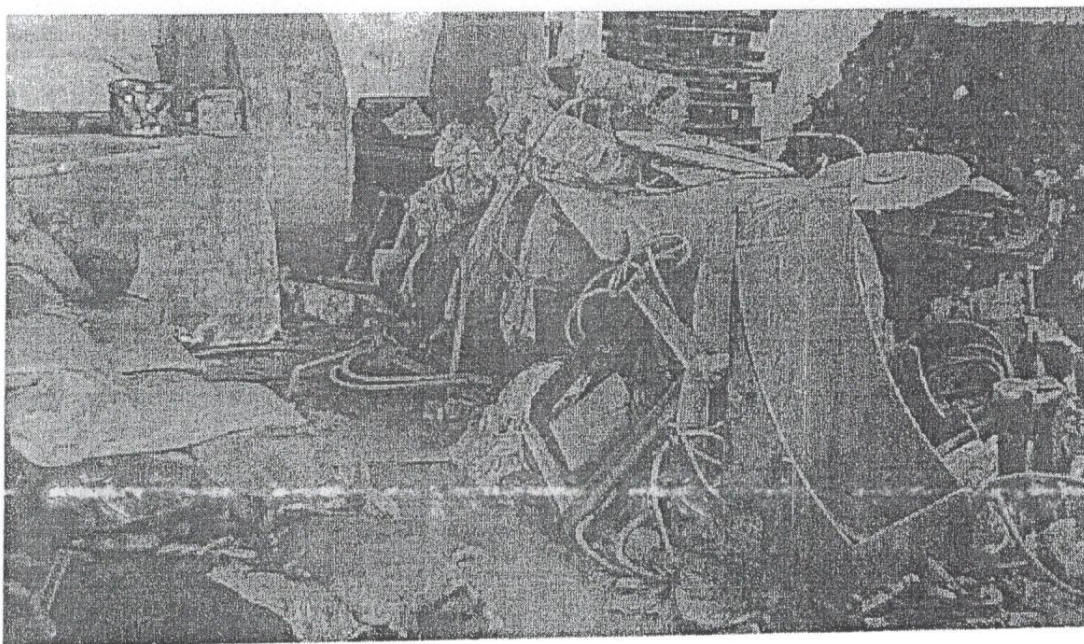


Figure 3: Waste at the factory premises

V: LEGAL FRAMEWORK

In the investigation Metal Refineries Limited this Committee had occasion to refer to:

- a) The Environmental Management and Co-ordination Act of 1999;
- b) The Environmental Management and Co-ordination (Environmental Impact Assessment/Environmental Audit) Regulations of 2003;
- c) The Water Act of 2002;
- d) The Water Resources Management Regulations of 2004;
- e) The Environmental Management and Co-ordination (Waste Management) Regulations of 2006;

- f) The Environmental Management and Co-ordination (Water Quality) Regulations of 2006;
- g) The Basel Convention on the Control of Trans-boundary Movement of Hazardous Waste and their Disposal of 1989;
- h) The Basel Convention Technical Guidelines for the Environmentally Sound Management of Waste Lead-acid Batteries;
- i) The Public Health Act (Cap. 252, Laws of Kenya);
- j) The Local Government Act;
- k) The Physical Planning Act of 1995; and
- l) The By-laws of the Municipal Councils of Nakuru and Mombasa.

It is necessary to give a brief review of the legislative background against which these matters were investigated and considered.

Section 58 of the Environmental Management and Co-ordination Act (EMCA) makes provisions for the requirement of an environmental impact assessment while section 68 makes provisions for the preparation of environmental audits. Sections 58 and 68 are mandatory provisions and must be adhered to by all project proponents. Section 58(1) provides that *"Notwithstanding any approval, permit or license granted under this Act or any other law in force in Kenya, any person being a proponent of a project shall, before financing, commencing, proceeding with, carrying out, executing ... submit a project report to the Authority, in the prescribed form, giving the prescribed information and which shall be accompanied with the prescribed fee."* Sub-section (2) provides that *"the proponent of a project shall cause to be undertaken at his own expense an environmental impact assessment study and prepare a report thereof where the Authority, being satisfied, after studying the project report submitted under sub-section (1), that the intended project may or is likely to have or will have a significant impact on the environment, so directs."*

The Environmental Management and Co-ordination (Environmental Impact Assessment/Environmental Audit) Regulations of 2004 make provisions for the procedures of submitting and processing both project reports and environmental impact assessment study reports as well as prescribing the nature of the information that must be contained in these two reports.

From the information gathered by the PCC, it is clear that MRL did not abide by the provisions of either the EMCA or the EIA/EA Regulations. The project proponent did not submit either a project report or an EIA study report prior to *financing, commencing, proceeding with, carrying out, and executing* the project. The project commenced in 2007 and yet it obtained an EIA license in 2008.

The Environment Management and Co-ordination (Environmental Impact Assessment/Environment Audit) Regulations of 2003 make provisions for the procedure of commencing a project. Part II of the Regulations provide for the preparation of a project report and the information that should be contained therein and Part III makes provisions for environmental impact assessment study reports and the EIA process. These provisions must be read together with those under section 58, which are mandatory.

The Water Act of 2002 and the Water Resources Management Regulations of 2004 make provisions for the protection of water sources in Kenya. The Environmental Management and Co-ordination (Water Quality) Regulations of 2006 make provisions for the protection of water sources *vis-à-vis* the quality of effluents that may be discharged into water sources.

According to information from the Secretariat of the Basel Convention, lead waste is a heavy metal and by its very nature is impossible to destroy. It is harmful to human health; it has both carcinogenic and non-carcinogenic impacts on both human and animal health. The Secretariat has also provided technical guidelines for the environmentally sound management of waste lead-acid batteries while the Convention makes provisions for the transboundary movement of hazardous wastes and their disposal. Kenya is a signatory to the Convention and has ratified it too. The Convention came into force in 1992 and it may only be applied against member states. Indeed, in its participation, Kenya hosted the Eighth Conference of Parties to the Convention in 2006 at the United Nations Offices in Nairobi (UNON). As a signatory to the Convention, Kenya has an obligation to seriously consider and apply the technical guidelines mentioned previously in respect to the management of waste lead-acid batteries.

The Physical Planning Act of 1995 at section 38 has provided for the application of an environmental impact assessment study process in relation to any projects considered in the jurisdiction of a local authority. Thus, it was disappointing that the MCM had failed to apply

these provisions in relation to the issuance of planning permission and other permits to the proprietor of the factory.

The Public Health Act makes provisions for the protection of public health in relation to nuisance emanating from a piece of property. The provisions of section 115 can be applied in relation to MRL factory if it is considered to be harmful to human health. The Public Health Officer, this Committee believes, has the authority to declare the factory a nuisance and to shut it down until it abates its nuisance.

The local authority has by-laws which address the subject of the environment. Indeed, it has gone to the extent of designating certain officers to head an environment department with the mandate of guiding and implementing environment policy within the councils' jurisdictions.

VI: RECOMMENDATIONS

In light of the foregoing, this Committee makes the following recommendations:

1. **Compliance with provisions of EMCA, the EIA/EA Regulations, 2003, the Waste Management Regulations, 2006, the Water Quality Regulations, 2006, the Physical Planning Act, 1996, the Public Health Act, and all other enabling laws and regulations:** The relevant agencies and government departments, including NEMA, the Public Health Department and the MCM must enforce the various provisions of the aforementioned statutes and regulations, including the provisions relating to penalties. It is quite clear that the project proponent has not abided by these in the commissioning of this project. The factory was built without an EIA study being conducted or an EIA license being issued. It would also be in the best interests of the residents of Mombasa Town that the Public Health Department maintains surveillance over the factory to ensure that the good health of the residents of Mombasa, particularly *Owino Uhuru* village and the adjoining areas, is assured. The EIA license should be revoked and be re-issued if at all upon the consensus of all the stakeholder licensing authorities.
2. **Streamline project review/assessment process:** It is now apparent that the process of assessing the environmental impacts of a proposed project cannot be completed by NEMA alone. Even the provision relating to the input of the lead agencies and institutions has not served to expedite and streamline the process. It is time that a new process was proposed. Perhaps if the financial aspects of the process were addressed so as to be as inclusive as

- possible, the participation of the relevant lead agencies and institutions in the review of EIAs and their general participation in the EIA process would be enhanced and improved.
3. **Application of the Basel Convention Technical Guidelines on the Environmentally Sound Management of Waste Lead:** While these technical guidelines are yet to be domesticated in Kenyan law, it is advisable for all factories processing waste lead in Kenya to adopt them in light of the fact that Kenya is a signatory to the Basel Convention and that it has made commitments towards the safe management of hazardous material including waste lead. NEMA should also ensure that the technical guidelines become law as soon as possible by drafting and gazetting regulations that incorporate these and other relevant technical guidelines as soon as practicable.
 4. **Occupational health and safety:** The Department of Occupational Health and Safety in the Ministry of Labour should place this facility, if at all it is licensed to operate at its present location, under enhanced surveillance to ensure that the provisions of the Occupational Health and Safety Act together with all its relevant regulations are strictly applied to ensure the highest levels of safety and protection of health for the workmen. Further, the factory should employ the highest levels of safety and hygiene for the safety its workmen, including regular and periodic vacuum-cleaning. Further, the Medical Officer of Health for Mombasa should place this factory under enhanced surveillance to monitor the exposure of the workmen to lead.
 5. **Task force:** The Ministry of Environment and Mineral Resources should constitute a task force, incorporating relevant ministries and agencies as well as the private sector, to address the question of the effective management of lead waste.

VII: POLICY IMPLICATION/OTHER REMARKS

As a result of the lack of an environmental policy, the domestication of multilateral environmental agreements, and any or all of their technical guidelines, has been difficult in the management of the environment. At present, the environment policy is under consideration. The drafters and technical advisors involved in the policy should take steps to ensure that the effective management of hazardous materials is addressed comprehensively,



Annex

LIST OF PARTICIPANTS TO THE STAKEHOLDERS' FORUM HELD ON 20/05/09

Dafion F Kiricha	-	Public Health Officer, Kilindini
Martin Shimba	-	NEMA
Alfred Ogolla Molo	-	Chairman, Mikindani Village Committee
Benjamin Musingola	-	Vice Chairman, Mikindani Village Committee
Habel Miheso	-	Secretary, Mikindani Village Committee
Johan Bazil	-	Treasurer, Mikindani Village Committee
Itegi Francis	-	Export Processing Zones (EPZ) Authority
Phyllis Omido	-	Metal Refineries Limited Public Relations Manager
Ahmed Abdulraza	-	Metal Refineries EPZ Ltd, Administration
Sameer V Moty	-	MRL EPZ Ltd (General Manager)
Fredrick Owiti	-	NEEM Kenya (Lead expert)
Paul Manyala	-	District Physical Planning Officer
Dr. Chidagaya	-	Medical Officer for Health, MCM
Peter Mwadime	-	Environment Department, MCM
Wemali Benson	-	NEMA, Mombasa

