



IN THE NATIONAL ENVIRONMENT TRIBUNAL AT NAIROBI

SAVE LAMU.....1st APPELLANT
SOMO M. SOMO..... 2nd APPELLANT
RAYA FAMAU AHMED..... 3rd APPELLANT
MOHAMMED MBWANA.....4th APPELLANT
JAMAL AHMED ALI.....5th APPELLANT
ABUBAKAR MOHAMMED TWALIB.....6th APPELLANT

-VERSUS-

NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY.....1ST RESPONDENT
AMU POWER COMPANY LIMITED.....2ND RESPONDENT

WITNESS STATEMENT OF JACKSON KIPLAGAT

1. I am a Regional Sustainable Investments Manager at the World Wildlife Fund for Nature (hereinafter referred to as 'WWF'). Our work entails promoting the sustainable use of resources thus promoting co-existence between wildlife and humans.
2. It is my contention that given the proposed Lamu Coal Power Plant project would be in contravention of the national and international commitments given by Kenya committing to a low carbon development path.
3. The Constitution of Kenya 2010, grants every Kenyan the right to a clean environment and clearly sets out the principles of sustainable development as a guide to the national development agenda. Article 10 and Chapter Five of the Constitution affirms the commitment by the people of Kenya to ensure a clean and healthy environment for all. The building of a coal power plant and its documented impacts is a clear violation of this constitutional right as the projected greenhouse gas (GHG) emissions from the Lamu Coal Plant are as high as 8.8 million tons of carbon-dioxide per year.
4. Kenya's National Climate Change Action Plan (NCCAP) 2013 – 2017 sets a plan to take Kenya through a low carbon development pathway. Infrastructure for electricity

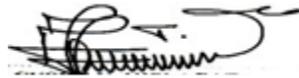
generation is identified as priority to support Kenya's development ambitions. It focuses on improved electricity production for a stable and secure supply of power and supports increased generation from renewable energy.

5. NCCAP promotes a low carbon climate resilient pathway that prioritizes renewable energy systems such as the development of Kenya's geothermal energy potential touted as the powerhouse for renewable energy development. This low carbon option has the largest abatement potential in the electricity generation sector at approximately 14 MtCO_{2e} a year in 2030. Other low carbon options include the expansion of wind and hydropower-based electricity generation with an abatement potential of 2.5 MtCO_{2e} by 2030 (Refer to annexure 1). The Climate Change Act No.11 of 2016 also emphasizes the need for a low carbon development pathway.
6. The Kenya Green Economy Strategy and Implementation Plan 2016 – 2030 (Refer to annexure 2) outlines the ambition for a low carbon, resource efficient, equitable and inclusive socio-economic transformation. The plan focuses on renewable energy, innovation, efficiency including reduced emissions from the energy sector. The construction and operation of the Lamu Coal Plant is in direct conflict with the goals set out in the plan.
7. Kenya's Nationally Determined Contribution (hereinafter referred to as 'NDC') which has been submitted to the United Nations Framework Convention on Climate Change (Refer to annexure 3) places a commitment, by the country, to abate its GHG emissions by 30% by 2030 relative to the BAU scenario of 143 MtCO_{2eq}; and in line with its sustainable development agenda. This commitment and BAU scenario did not even anticipate the entry of coal power generation in the mix.
8. The proposed Lamu Coal Power plant if implemented will make it difficult for Kenya to meet national or global commitments with the goal expressed in the NDC as part of the Paris agreement and to ensure that Kenya contributes its part to ensure global warming is well below 2 degree Celsius and towards 1.5 degrees Celsius warming. This is besides the proven impacts of operating a coal plant.
9. The EIA report has not conducted a comprehensive analysis of the national low carbon commitments and how the project affects the achievement of these commitments. Further, a proper analysis of climate change impacts, which would also consider alternative forms of energy, has not been considered.
10. Kenya has a good mix of renewable energy sources that now account to over 80% of the national electricity mix. Solar, wind geothermal have massive untapped potential.
11. There is a clear trend in Europe and the US to back down on coal financing, both from public and private sources. The biggest multilateral bank, the European Bank for Reconstruction and Development has stated "EBRD will not finance coal fired generation except in rare and exceptional circumstances" (Refer to annexure 4). The USA together with Norway, Denmark, Sweden, Finland and Iceland has also agreed that they will no longer use public funding, including ODA contributions, to finance new coal power

plants outside the OECD. WWF expect this trend to continue, with a reduced appetite by foreign governments to be willing to support new coal capacity expansions.

12. Similarly, there is also an ongoing movement amongst private investors to divest from (sell their stocks of) coal companies, both coal mining and coal power producers due to ethical considerations of that these companies inhibits the possibility to achieve the international climate ambitions, and moreover also to reduce local environmental and human impact. Coal is also associated with significant water related risks due to its reliance on cooling water.
13. It is my view is that it will become harder to attract FDI to coal mining and coal power plants in the years to come drawing on international financing sources hence not attractive to investors in the coming future.

Dated at Nairobi this 8th day of March 2017.



Signed by Jackson Kiplagat
The Appellant's Witness

Drawn and Filed by:

Suyianka Lempaa & Co. Advocates
Ambank House, 3rd Flr,
ICPC Suit, Utalii Lane, Off University Way
P.O. Box 5436-00100,
Nairobi.

To be served upon:

1st Respondent:
National Environment Management Authority
Popo Road, South C, Off Mombasa Road,
P.O. Box 67839-00200
Nairobi.

2nd Respondent:
Amu Power Company Limited
Geminia Insurance Plaza, 4th Flr,
Upperhill,
P.O. Box 61872-00200,
Nairobi.