



17/October/2018

The Executive Director,  
National Environment Management Authority (NEMA),  
P.O. Box 22255,  
Kampala (U).



Dear Sir/Madam,

**R.E: A LETTER TO NEMA REQUESTING FOR A MANDATORY PUBLIC HEARING FOR TILENGA ESIA IN ACCORDANCE WITH REGULATION 21(2) OF THE 1998 EIA REGULATIONS**

1. The undersigned Ugandan Civil Society Groups (CSGs) working to prevent the impacts of oil on biodiversity in the Albertine Graben appreciate the public notice published by NEMA in the *Daily Monitor* of October 16, 2018 in which NEMA, under Regulations 19 and 20 of the 1998 Environmental Impact Assessment (EIA) Regulations, called for public comments on the Environmental and Social Impact Assessment (ESIA) study report for the Tilenga oil project. We have read the Non-Technical Summary and the full report for Tilenga ESIA and we commit to submit detailed comments before November 5, 2018 as requested in the public notice.
2. While we appreciate NEMA's initiative to involve the public in the Tilenga ESIA processes and the efforts by the Ministry of Energy and Mineral Development (MEMD) in addition to Petroleum Authority of Uganda (PAU), the lead agency, as well as the efforts by Total E&P Uganda, the developer, and AECOM in addition to Eco & Partner, the ESIA consultants, that enabled the compilation of the current Tilenga ESIA report, we note with concern that the public notice by NEMA does not indicate the date for the public hearing for the Tilenga ESIA. The notice also does not indicate that NEMA has an obligation to call for a public hearing(s) in line with the EIA regulations before making any decision on the Tilenga ESIA. We believe that this is a fundamental gap in the public notice.
3. Regulation 21(2) of the 1998 EIA regulations provides that, "The Executive Director SHALL call for a public hearing under these regulations where there is controversy or where the project may have transboundary impacts". Under this regulation, NEMA has no discretionary powers but is directed to organise a public hearing. A public notice

indicating that NEMA may make a decision and issue a certificate of approval for the Tilenga project before organising a public hearing therefore is in breach of the law. Public hearings are important to enable poor, local, illiterate, isolated and other vulnerable host communities to effectively participate in decisions that affect their wellbeing and environment regarding huge projects such as the Tilenga one.

4. More so, the Tilenga oil project is controversial and will have transboundary impacts. The project's activities will include drawing of water from Lake Albert, whose boundaries remain a challenge between Uganda and the Democratic Republic of Congo (DRC). It should be noted that even the existence of many agreements including the Uganda-Zaire 1990 Agreement, the 2007 Uganda-DRC Ngurdoto Agreement and others whose main objective was to address the peace and security challenges in the Uganda-DRC border areas through among other things providing for a framework for benefit sharing and conservation of shared resources such as the Lake Albert waters, fish and others have failed to achieve lasting results. If the Tilenga project is not well handled, it may worsen the conflicts and loss of lives as well as environmental destruction in Uganda and the DRC. We need public hearings to ensure effective public consultations that can build consensus not only among Ugandan stakeholders but also stakeholders across the borders who are likely to be affected by the Tilenga project.
5. We recognise that despite the important role NEMA plays in matters of environmental conservation amidst growing and new development pressures such as oil production, NEMA remains poorly funded. This affects NEMA's efficiency in the execution of its mandate. Government and parliament should urgently increase funding to NEMA as a sign of the Uganda's commitment to manage oil in a manner that will not affect biodiversity. Availing NEMA with the necessary funds will strengthen the body and help it to perform its mandate including organising public hearings for this and upcoming ESIA's in the oil and other sectors.
6. Further, there is need to strengthen Uganda's environmental legal framework. Available evidence indicates that NEMA has the skills and interest to do a good job but it cannot effectively play its role amidst weak and outdated laws. It is unfortunate that for over four years, government and parliament have failed or ignored the need to complete the enactment and formulation of the new environmental laws such as the National Environment Bill of 2017, the draft EIA and Strategic Environment Assessment (SEA) regulations of 2017, the Uganda Wildlife Bill and others. Without such relevant laws to among other things improve NEMA's independence, funding, penalties for environmental offenders and others, the ongoing oil production activities and other threats will worsen environmental degradation in Uganda.

7. It is especially unfortunate that to date, as government and oil companies are finalising major oil decisions that will have long lasting environmental and social impacts, there is no specific provision in our current laws including the 1995 National Environment Act, the Uganda Wildlife Act and others that specifically provides for NEMA to reject oil activities even in the most critical biodiversity areas such as Lake Albert, River Nile, Budongo Forest, Murchison Falls National Park, and others of national and international importance. NEMA should use its powers NOT to issue any certificate of approval for oil projects as a condition to force parliament and government to complete the new environmental laws and regulations.

### **Recommendations**

In view of the above, we call upon NEMA to work with other stakeholders to do the following:

- a. **Mandatory public hearing:** NEMA must use EIA Regulation 21(2) to call for a mandatory public hearing before issuing a certificate of approval to the developer for the Tilenga oil project.
- b. **Organise public hearings at national and local level:** In addition to the required mandatory public hearing under EIA regulation 21(2), NEMA should organise more public hearings in all the Tilenga project host sub-counties of Buliisa and Nwoya. Other hearings should be organised in Hoima, Masindi and Kampala because the Tilenga project has national, transboundary and international impacts.
- c. **Government should allocate NEMA sufficient funds:** In the interest of improving conservation, government and parliament should urgently ensure that NEMA gets sufficient funds to enable it execute its legal mandate. NEMA has the opportunity to use the Tilenga ESIA as a condition to engage the relevant departments of government to provide sufficient funding.
- d. **Establish a multi-stakeholder committee to implement ESIA and SEA recommendations:** NEMA should work with other stakeholders to use the ongoing process of making the new environmental laws and regulations such as EIA and SEA regulations to advise government to establish a multi-stakeholder committee. The committee should be comprised of actors from government, the private sector, religious and cultural groups, CSOs, the academia and others to act as an independent multidisciplinary oversight body to promote compliance with environmental conservation tools such as EIA, SEA, ESIA and others.
- e. **Delay any decision to issue a certificate of approval for the Tilenga ESIA** and others until the new environmental laws and regulations are put in place by government and parliament. This will help the country to stop engaging in oil activities based on a weak and outdated environmental legal framework.

The undersigned NGOs/civil society groups are committed to continue working with NEMA, government and other stakeholders to avoid negative oil impacts on our environment. We also

commit to continue engaging with oil companies such as Total E&P and others in Uganda to avoid oil activities in critical biodiversity areas.

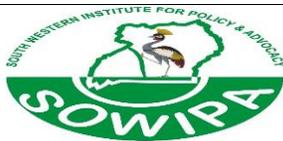
We thank you.

Yours faithfully,



Dickens Kamugisha,  
On behalf of the signatories below.

Other signatories

No.	Institution	Logo or location
1.	Africa Institute for Energy Governance (AFIEGO)	
2.	National Association of Professional Environmentalist (NAPE)	
3.	Environmental Conservation Trust of Uganda (ECOTRUST)	
4.	Guild Presidents Forum on Oil Governance (GPFOG)	
5.	Center for Constitutional Governance (CCG)	
6.	South Western Center for Policy and Advocacy (SOWIPA)	
7.	World Voices Uganda (WVU)	
8.	Community Transformation Foundation Network (COTFONE) –Greater	

<b>9.</b>	Green Organisation Africa (GOA)-Masindi
<b>10.</b>	Oil Refinery Residents Association (ORRA)-Hoima
<b>11.</b>	Kakindo Orphans Care-Buliisa-
<b>12.</b>	Girl Power foundation-Kasese
<b>13.</b>	Friends of Nature-Kasese

**CC:**

- The Speaker, Parliament of Uganda
- The Minister, Water and Environment
- The Minister, Energy and Mineral Development
- The Chairperson, Natural Resources Committee of Parliament
- The Executive Director, Petroleum Authority of Uganda
- The Executive Director, Uganda National Oil Company
- The Executive Director, Uganda Wildlife Authority
- Bunyoro Parliamentary MPs and MPs from Nwoya
- The Chairperson, Parliamentary Forum on Oil and Gas (PFOG)
- The Chairperson, Uganda Women Parliamentary Association (UWOPA)
- The District Speakers of Nwoya, Buliisa, Masindi and Hoima
- The Managing Director, Total E&P Uganda
- The Managing Director, Tullow Uganda
- The Managing Director, CNOOC Uganda
- The Managing Director, AECOM
- The Managing Director, ECO & Partner Consult