

PROJECT BACKGROUND

Menengai West Stakeholders Forum (MWESFO), a registered community-based organization representing communities in Menengai West and Soin Wards, have challenged the Environmental Impact Assessment (EIA) License issued by the National Management Authority (NEMA) to Sosian Energy Limited (SEL), a private renewable energy development company, for geothermal exploration in the Menengai Area.

SCOPE OF ACTIVITIES

- Preliminary survey
- Drilling of Thermal Gradient Holes to a depth of 200m
- Water wells to provide water for drilling exploration wells
- Exploration drilling to depths of about 2.7km


LEGAL QUESTIONS

- Was the firm of Lead expert qualified to undertake activities in an Environmental Impact Assessment (EIA) process?
- Does the exploratory drilling project by SEL fall within the bounds of a Social Environmental Assessment (SEA) which ought to have been completed?
- Was there adequate public participation and consultation with impacted communities as required in the Environmental Management and Coordination Act (EMCA)?
- Did the Environmental Impact Assessment (EIA) Report sufficiently assess negative impacts arising from the proposed project?
- Were the mitigation measures adequate and sufficient to mitigate the negative impacts identified in the EIA?

KEY CONCERNS

Key concerns are that the community will live in an environment that is harmful to their health and well-being, contrary to the right to a clean and healthy environment as guaranteed in article 42 of the Constitution of Kenya.

TIMELINE OF COMMUNITY ENGAGEMENT WITH NEMA

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- 12TH JUNE 2019**
Alleged public consultation meeting held at Donnies Hotel.
 - 21ST JUNE 2019**
Public meeting held at A.I. Tulwobmoi Secondary School at which the community expresses strong opposition to the project. MWESFO subsequently writes to SEL confirming opposition to the project.
 - 4TH DECEMBER 2020**
The National Environment Management Authority (NEMA) published a newspaper advertisement for a public hearing for the proposed Geothermal Exploration and Drilling by SEL and Geothermal Development Company (GDC) at Menengai West area; in Nakuru County
 - 11TH DECEMBER 2020**
MWESFO and other residents attend the public hearing during which presentations were restricted, and community residents were asked to identify four members of MWESFO to make presentations on their behalf, which they did.
 - 5TH FEBRUARY 2021**
MWESFO sends a letter via email to the Director-General of NEMA requesting the minutes of the public hearings for projects including the proposed geothermal exploration drilling project by SEL but receives no response.

LITIGATION

- The case was before members of the National Environment Tribunal from the 27th - 29th of June 2022.
- The Tribunal has since closed the case and asked Appellants (MWESFO) and Respondents (SEL and NEMA) to file submissions within 20 days.
- The Tribunal also reserved the right to visit the site of the proposed project for its own assessment.
- The case will be back in court on 25th July for submission highlights and to a potential set of date for the judgment.