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Rt. Hon. Speakers

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22/11/24




THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - THIRD SESSION - 2024
PUBLIC PETITIONS COMMITTEE

REPORT ON-

CONSIDERATION OF PUBLIC PETITION NO. 82 OF 2023 REGARDING THE DELAY IN
THE COMPLETION OF JOMVU KUU-JITONI -RABAI ROAD IN JOMVU SUB COUNTY BY
HON BADY T WALIB BADI, M.P.

NOVEMBER 2024

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 27 NOV 2024	DAY: Wednesday
TABLED BY:	Hon. Nirmal M. Bai (Chairperson)
CLERK-AT THE-TABLE:	Lonale

Directorate of Legislative & Procedural Services
Clerk's Chambers
Main Parliament Buildings
NAIROBI

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CHAIRPERSON'S FOREWORD

On behalf of the Public Petitions Committee and pursuant to the provisions of Standing Order 227, it is my pleasant privilege and honour to present this House the Report of the Public Petitions Committee regarding Public Petition No. 82 of 2023 regarding the delay in the completion of Jomvu Kuu-Jitoni-Rabai road in Jomvu subcounty. The Petition was presented to the House pursuant to Standing Order No. 225 (2) (a) by the Hon. Bady Twalib Bady, M.P. on behalf the residents of Jomvu Constituency.

The Petitioner prayed that the Committee compels the Kenya National Highway Authority to complete the construction of the road as per the contractual agreement within the next six months. In consideration of the Petition, the Committee collected the views from the Petitioner, the residents of the area during a site visit inquiry and Kenya Urban Roads Authority (KURA).

The Committee observed that the tarmacking of Jomvu Kuu Jitoni-Rabai Road was yet to be completed as the contractor suspended works due to delayed payment to the contractor. The Committee recommends that the National Treasury disburses the remaining funds to KURA to enable completion of the road.

The Committee is thankful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support offered during the consideration of the Petition. The Chairperson expresses gratitude to the Members of the Committee and the Secretariat for their devotion and commitment to duty during the consideration of the Petition.

On behalf of the Committee and pursuant to the provisions of Standing Order 199, I now wish to table the report before the House.



HON. NIMROD MBITHUKA MBAI, M.P.
CHAIRPERSON, PUBLIC PETITIONS COMMITTEE

Date: 20/11/2020

PART ONE

PREFACE

1.1 Establishment and Mandate of the Committee

The Public Petitions Committee was established under the provisions of Standing Order 208A with the following terms of reference:

- (a) considering all public petitions tabled in the House;
- (b) making such recommendations as may be appropriate with respect to the prayers sought in the petitions;
- (c) recommending whether the findings arising from consideration of a petition should be debated; and
- (d) advising the House and reporting on all public petitions committed to it.

1.2 Committee Membership

The Public Petitions Committee was constituted in October 2022 and comprises the following Members:

Chairperson

Hon. Nimrod Mbithuka Mbai, M.P.
Kitui East Constituency
United Democratic Alliance (UDA)

Vice Chairperson

Hon. Janet Jepkemboi Sitienei, M.P.
Turbo Constituency
United Democratic Alliance (UDA)

Hon. Patrick Makau King'ola, M.P.
Mavoko Constituency
**Wiper Democratic Movement-Kenya
(WDM-K)**

Hon. Edith Vethi Nyenze, M.P.
Kitui West Constituency
**Wiper Democratic Movement-Kenya
(WDM-K)**

Hon. Ernest Kivai Ogesi Kagesi, M.P.
Vihiga Constituency
Amani National Congress (ANC)

Hon. Maisori Marwa Kitayama, M.P.
Kuria East Constituency
United Democratic Alliance (UDA)

Hon. Joshua Chepyegon Kandie, M.P.
Baringo Central Constituency
United Democratic Alliance (UDA)

Hon. John Walter Owino, M.P.
Awendo Constituency
Orange Democratic Movement (ODM)

Hon. Bernard Muriuki Nebart, M.P.
Mbeere South Constituency
Independent

Hon. Bidu Mohamed Tubi, M.P.
Isiolo South
Jubilee Party (JP)

Hon. Caleb Mutiso Mule, M.P.
Machakos Town Constituency
Maendeleo Chap Chap Party (MCCP)

Hon. John Bwire Okano, M.P.
Taveta Constituency
**Wiper Democratic Movement-Kenya
(WDM-K)**

Hon. Peter Mbogho Shake, M.P.
Mwatate Constituency
Jubilee Party (JP)

Hon. Sloya Clement Logova, M.P.
Sabatia Constituency
United Democratic Alliance (UDA)

Hon. Suzanne Ndunge Kiamba, M.P.
Makueni Constituency
**Wiper Democratic Movement-Kenya
(WDM-K)**

1.3 Committee Secretariat

The Public Petitions Committee was facilitated members of the secretariat:

Lead Clerk
Mr. Ahmed Kadhi
Principal Clerk Assistant II

Ms. Anne Shibuko
First Clerk Assistant

Ms. Miriam Modo
First Clerk Assistant

Mr. Willis Obiero
Clerk Assistant III

Mr. Isaac Nabiswa
Legal Counsel II

Ms. Patricia Gichane
Legal Counsel II

Mr. Martin Sigei
Research Officer III

Ms. Roselyne Njuki
Senior Serjeant-at-Arms

Mr. Paul Shana
Serjeant-at-Arms

Mr. Calvin Karungo
Media Relations Officer III

Mr. Peter Mutethia
Audio Officer

PART TWO

BACKGROUND TO THE PETITION

2.1 Introduction

1. Public Petition No. 82 of 2023 regarding the delay in the completion of Jomvu Kuu-Jitoni-Rabai road in Jomvu Subcounty was presented to the house on 7th December 2023 by the member for Jomvu Constituency, Hon. Bady Twalib Bay, MP on behalf of the residents of Jomvu Constituency.
2. The petitioners stated that the Jomvu Kuu-Jitoni-Rabai road launched by the then Deputy President of the Government of Kenya on March 16,2018 was meant to link the interior parts of Jomvu Constituency to Rabai constituency without having to drive to Mazaras.
3. The road was part of the old Mombasa-Nairobi Road and links the interior parts of Jomvu to areas like Mazaras and Rabai, thereby complementing the Mombasa-Nairobi highway.
4. Out of the 12 kilometres, the contractor made substantial progress and completed construction of the first 9 kilometres, after which the contractor abandoned the site without completing the remaining 3 kilometres.
5. The remaining section of the road is dilapidated exposing residents to extremely dusty conditions when its dry and impassable due to mud cumulated during rainy weather.
6. Transport costs incurred by residents have tremendously increased due to high maintenance costs on vehicles and motorcycles passed on to users by service providers.
7. Access to water had been curtailed due to the demolition of pipes during the road construction, which cannot be fixed until construction of the road is completed. As a result, residents have incurred exorbitant charges in obtaining this basic commodity through the purchase of water from bowsers.

2.2 Prayers

8. The petitioners prayed that the Committee—
 - (i) Compels the Kenya National Highway Authority to complete construction of the road as per the contractual agreement within the next six months; and
 - (ii) Make any other recommendation or action it deems fit in addressing the plight of the petitioners.

PART THREE

3.1 STAKEHOLDERS' SUBMISSIONS ON THE PETITION

3.1.1 Petitioners

On Wednesday 20th March 2024, the Member for Jomvu Constituency Hon. Bady Twalib Bady, MP appeared before the committee and submitted as follows—

9. The Jitoni-Rabai Road was launched on 16th March 2018 and was meant to link the interior parts of Jomvu Constituency to Rabai Constituency without having to drive to Mazeras.
10. The road was part of the old Mombasa-Nairobi Road and links the interior parts of Jomvu to areas like Mazeras and Rabai, thereby instrumental in complementing the main Mombasa-Nairobi Highway.
11. Out of the 12 kilometres, the contractor made substantial progress and completed construction of the first nine kilometres, after which he abandoned the site without completing the remaining three kilometres on Jomvu side, despite residents demolishing their houses and businesses to pave way for the construction of the said road.
12. The unconstructed section of the road is dilapidated exposing residents to extremely dusty conditions during dry seasons and impassable due to mud accumulated during rainy weather. Therefore, the transport costs incurred by residents have tremendously increased due to high maintenance costs of vehicles and motorcycles passed on to users by service providers.
13. Access to water has been curtailed through destruction of pipes during construction of the road, which cannot be fixed until conclusion of the road construction. This has forced residents to incur exorbitant charges in accessing this basic commodity through purchase of water from water bowsers.
14. Despite these challenges, the efforts to engage Kenya Urban Roads Authority (KURA) were futile.

3.1.2 Prayers

15. The Petitioner prayed that the Committee—

- (i) Compels KURA to complete construction of the road as per the contractual agreement within the next six months; and,
- (ii) Make any other recommendation or action it deems fit in addressing the plight of the petitioners.

3.1.3 Kenya Urban Roads Authority

Vide a letter dated 11th June 2024, Eng. Mike Y. Telieny on behalf of the Director General of Kenya Urban Roads Authority (KURA) made written submissions on the Petition as follows—

16. The works comprising the contract are situated in Mombasa and Kilifi Counties in the Coastal region. The project has been conceived under the Low Volume Sealed Roads program which is part of the Roads 10,000 km program that is geared towards increasing the paved road network in the Country thus stimulating economic growth and supporting the primary growth sector.
17. The main project works comprises construction to bitumen standards of Jomvu Kuu-Jitoni-Rabai road with the cross sections including, 7.0m Wide Carriageway, Lined Drains on both sides and 2.0m Wide Walkways on both sides.
18. The total length of the project road was approximately 11.7 km. The construction contract was awarded on 10th July, 2017 and the engineer issued the order to commence on 15th August, 2017 with 28 days mobilization period, making the commencement date to be the 13th September, 2017.
19. The contract period was extended by 645 days making 27th December 2023 the date of completion and the provisional extension of time was granted since then.
20. The project objectives included decongesting the Mombasa Nairobi highway by and providing an alternative route for smaller vehicles; reducing the travel times between the local market centres; opening more areas for development; improve access by the local community; improving drainage in the area; and improving the quality of local environment through reduction of dust and soil erosion.
21. The works to be executed under the contract comprise mainly of but not limited to facilitation of the supervision staff, relocation of utilities as necessary, site clearance, earthworks to formation levels, and regular maintenance of passage of traffic during construction including diversion works as necessary to meet regulatory requirements, construction of 2m walkways on both side of the carriageway with 25mm thick AC type I wearing course, installation of pipe culverts and other drainage works, protection works using stone pitching and gabions as necessary, provision and installation of road furniture including road marking and maintenance of the works during construction and 12 months Defect Liability Period.
22. The scope of works in the contract included but not limited to facilitation of the supervision of staff, relocation of utilities as necessary, site clearance, earthworks to formation levels, regular maintenance of passage of traffic during construction including diversion works as necessary to meet regulatory requirement.

23. Further, the contract entailed construction of the pavement structure along the existing alignment including construction of 300mm improved subgrade, construction of 200 mm grave subbase of minimum, provision of 150mm cement improved gravel base on carriageway, widening and walkways, and laying of 50mm Asphalt Concrete Type I wearing course on carriageway and widening.
24. Additionally, the contract for the scope of works included the construction of 2m walkways on both side of the carriageway with 25mm thick AC type 1 wearing course, and installation of pipe culverts and other drainage works.
25. The scope also included protection works using stone pitching and gabions as necessary, provision and installation of road furniture including road marking, maintenance of the works during construction and 12 months defect liability period.
26. Finally, the scope was to cover any other activity not listed but deemed to be necessary by the Engineer to be carried out subject to formal instructions and within the mode of payment stipulated either by day works or on measured basis.
27. The overall physical progress was about 85% (8 milestones). The Contractor is currently not on site after suspending works citing delayed payment (pending bills) and cash flow issues since June 2022.
28. The contract data as of 11th June 2024 was as follows—

Project Title	CONSTRUCTION TO BITUMEN STANDARDS OF JOMVU KUU - JITONI - RABAI ROAD; MOMBASA COUNTY
Contract No.	KURA/DEV/LVSUR/314/2016-2017
County	Mombasa/Kilifi
Financier	GoK Development Vote
Employer	Director General, Kenya Urban Roads Authority (KURA)
Engineer	Director (Policy, Strategy and Compliance) Kenya Urban Roads Authority (KURA)
Engineer's representative	Deputy Director (Coast Region) Kenya Urban Roads Authority (KURA)
Site supervision	Resident Engineer -Kenya Urban Roads Authority
Contractor	M/S Associated Construction Co. Ltd
Contract Sum	KES 1,023,765,470.40
Date of Contract award	10 TH July,2017
Order to Commence	15 th August,2017
Period of Commencement	28 Days
Date of commencement	13 th September,2017
Contract period	24 Months
Original date of completion	13 th September,2019
Extension of time No. 1	208 days

Revised date of completion No. 1	8 th April, 2020
Extension of time No. 2	189 Days
Revised date of completion No.2	16 th October,2020
Extension of time No. 3	190 days
Revised date of completion No. 3	25 th April, 2021
Extension of time No. 4	190 Days
Revised date of completion No. 4	25 th April, 2021
Extension of time No. 5	21 st March 2022
Progress to date	85%
Extension of time No. 6	645 Days
Revised date of completion No. 6	27 th December 2023
Time elapsed	80 months (333% of contract period)
Defect liability period	12 months
Performance based contract period	36 months
Performance based contract Amount	KES 31,132,080
Amount certified to date	KES 842,424,582.26
Amount paid to date	KES 699,483,065.14
Amount owed to the contractor (pending bill)	KES 148,571,018
Amount certified this month	NIL
Date of this report	11 th June 2024

29. The overall physical progress of the project was about 85 per cent (8 milestones). The contractor was not at site after suspending works citing delayed payment (pending bills) and cash flow issues since June 2022.

30. The Authority was awaiting the release of the Exchequer funds to pay the contractor, in order to resume works on site. Meanwhile, KURA would also explore ways of making the remaining section of the road passable, and mitigate the environmental concerns, including dust as raised by the Petitioner.

31. The challenges encountered during the project implementation included delayed payments, encroachment on road corridor, and presence of power lines and water pipes.

3.1.4 Site Visit

On 27th April 2024, the Committee conducted a site visit inquiry at the Jomvu Kuu Jitoni-Rabai Road in Mombasa County and made the following observations—

32. The tarmacking of the road was yet to be completed and there was no contractor on site.
33. The untarmacked section of the road was narrow, with a poor drainage system and had exposed residents to dust conditions.
34. The road passed through a neighbourhood hosting several residential buildings, small businesses and agricultural lands in the area hence affecting economic stability of the area.

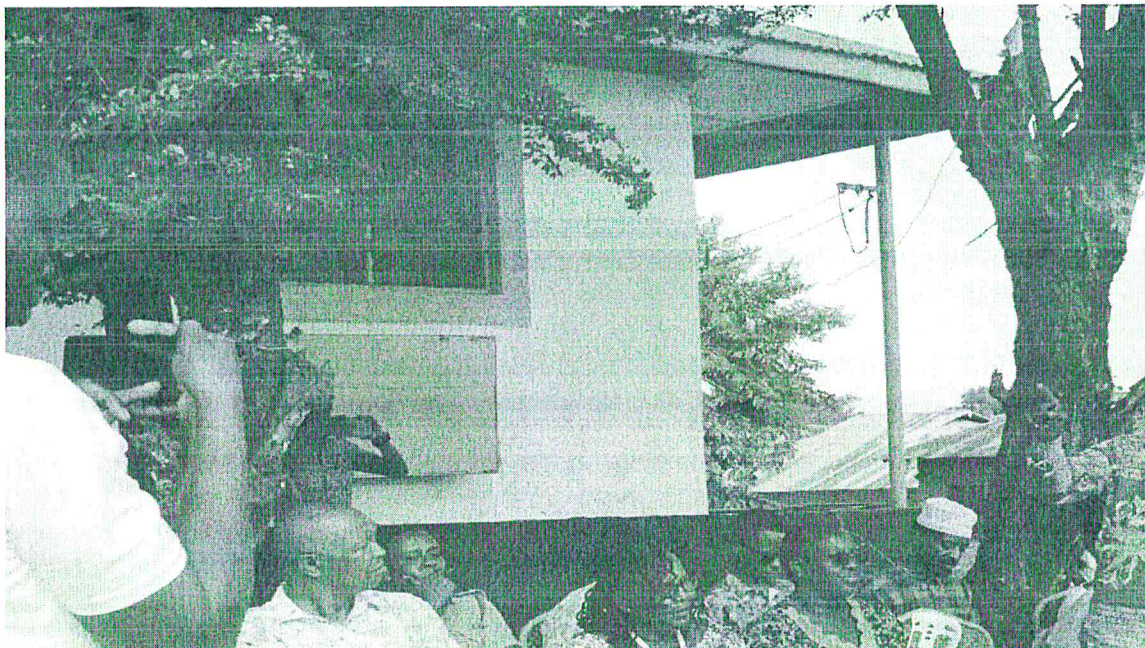


Figure 1. Hob. Bady Twalib briefing the Committee during the site visit inquiry

35. The residents affected by the status of the road included *boda boda* transporters and small businesses due to the high cost of maintenance on vehicles and motorcycles used in service provision.

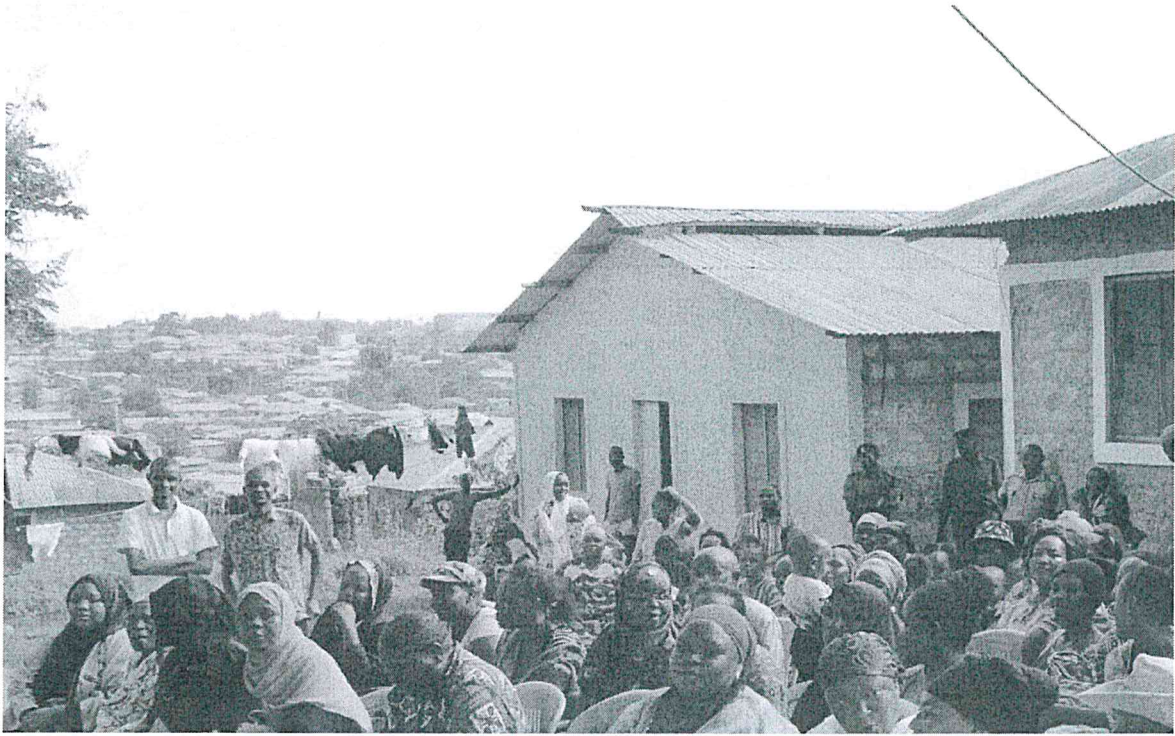


Figure 2. *Community members engaging the Committee during the site visit*

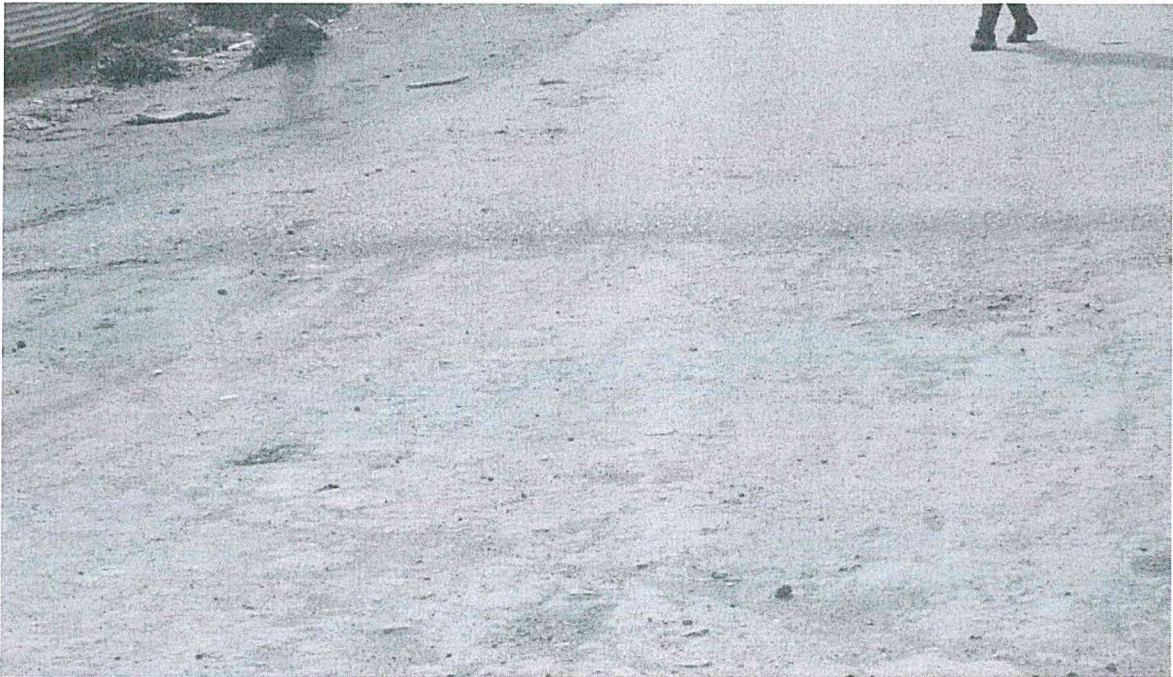


Figure 3. *A section where the tarmacking of the road stalled*

PART FOUR

4.1 COMMITTEE OBSERVATIONS

Upon hearing from the Petitioner and other stakeholders, the Committee observed that—


36. The Jomvu Kuu-Jitoni-Rabai Road is classified as an urban road and pursuant to the provisions of section 10 of the Kenya Roads Act, the road falls under the responsibility of the Kenya Urban Roads Authority.
37. The contract for construction of the road to bitumen standards was awarded to M/S Associated Construction Limited and the contract period was 24 months.
38. The tarmacking of Jomvu Kuu Jitoni-Rabai Road in Mombasa County was yet to be completed as the contractor suspended works due to delayed payment to the contractor.
39. The untarmacked section of the road was in a dilapidated state, with poor drainage systems and dusty condition affecting the wellbeing of the residents in the area including businesses.
40. According to Report of the Auditor-General on Kenya Urban Roads Authority for the year ended 30th June, 2022—
 - (i) An audit inspection exercise carried out in February, 2023 revealed that the project implementation was behind schedule going by the project extended completion date of 21st March, 2022. The works had stalled, and the contractor was not on site.
 - (ii) Some completed sections of the road had been worn out and required to be redone. In the circumstances, the project completion was behind schedule as approximately 11 months had elapsed from the revised project completion date of 21st March, 2022.
41. The project was extended six times for a period totalling 80 months as of 11th June 2024. This would adversely impact on realization of value for money by the citizens.


PART FIVE

5.1 COMMITTEE RECOMMENDATIONS

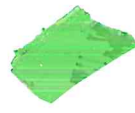
42. Pursuant to the provisions of Standing Order 227, the Committee makes the following recommendations—

- (i) The National Treasury disburses the remaining funds to KURA in the Financial Year 2024/2025 or through a Supplementary budget, if any, to enable completion of the road; and
- (ii) KURA to undertake measures with a view to making the remaining section of the road passable, and mitigate the environmental concerns, including dust.

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 27 NOV 2024	DAY: Wednesday
TABLED BY:	Hon. Nimrod Mbai (Chairperson)
CLERK-AT THE-TABLE:	Lornale

Signed:  Date: 20/11/2024

THE HON. NIMROD MITHUKA MBAI, M.P.
CHAIRPERSON, PUBLIC PETITIONS COMMITTEE



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ANNEXURES

- Annex 1: The Adoption List
- Annex 2: Public Petition No. 82 of 2023 regarding the Delay in the Completion Jomvu Kuu -Jitoni- Rabai Road in Jomvu subcounty
- Annex 3: Minutes of the 11th sitting of the Public Petition Committee held on Wednesday, March 20,2024
- Annex 4: Minutes of the 41st sitting of the Public Petition Committee held on Thursday, June 13,2024
- Annex 5: Letter Ref: KURA/SP/6 VOL.3(2) forwarding written submissions on the response to the Petition.
- Annex 6: Minutes of the 58th Sitting held on 8th November, 2024



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - THIRD SESSION - 2024
PUBLIC PETITIONS COMMITTEE

ADOPTION SCHEDULE
OF THE REPORT ON CONSIDERATION OF PUBLIC PETITION NO. 82 OF 2023
REGARDING THE DELAY IN THE COMPLETION OF JOMVU KUU-JITONI -RABAI ROAD IN
JOMVU SUB COUNTY

DATE 8TH NOVEMBER 2024

We, the undersigned Honourable Members of the Public Petitions Committee, do hereby affix our signatures to this Report on the consideration of Public Petition No. 82 of 2023 regarding the Delay in the Completion of Jomvu Kuu-Jitoni -Rabai Road in Jomvu Sub County to confirm our approval and confirm its accuracy, validity and authenticity:

NO.	NAME	DESIGNATION	SIGNATURE
1.	Hon. Nimrod Mbithuka Mbai, M.P.	Chairperson	
2.	Hon. Janet Jepkemboi Sitienei, M.P.	Vice Chairperson	
3.	Hon. Patrick Makau King'ola, M.P.	Member	
4.	Hon. Joshua Chepyegon Kandie, M.P.	Member	
5.	Hon. John Walter Owino, M.P.	Member	
6.	Hon. Ernest Ogesi Kivai, M.P.	Member	
7.	Hon. Maisori Marwa Kitayama, M.P.	Member	
8.	Hon. Edith Vethi Nyenze, M.P.	Member	
9.	Hon. Bidu Mohamed Tubi, M.P.	Member	
10.	Hon. Caleb Mutiso Mule, M.P.	Member	
11.	Hon. (Eng.) Bernard Muriuki Nebart, M.P.	Member	
12.	Hon. Peter Mbogho Shake, M.P.	Member	
13.	Hon. Suzanne Ndunge Kiamba, M.P.	Member	
14.	Hon. John Bwire Okano, M.P.	Member	
15.	Hon. Sloya Clement Logova, M.P.	Member	

