

REVIEW OF THE ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT REPORT OF THE TILENGA PROJECT

**Civil Society Organizations' Comments and Recommendations Submitted to
The National Environment Management Authority (NEMA)**

November 2018

These comments and recommendations were generated and submitted from the constituent organizations that form the Civil Society Coalition on oil and gas (CSCCO) and the Environment and Natural Resources Network (ENR-CSOs Network), with support from Advocates Coalition for Development and Environment (ACODE) and the World-Wide Fund for Nature (WWF)

Contributing Organizations:



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I. Introduction:

The government of Uganda has for the last twelve years been working to prepare for the production of oil that was discovered in 2006. Bearing in mind the lessons from other oil producing countries, the government through the Ministry of energy and Mineral development worked to put in place the requisite policy, legal, institutional and regulatory framework for the proper management of the oil and gas sector. To this end, the overarching goal of the National Oil and Gas Policy of 2008, is “To use the country’s oil and gas resources to contribute to early achievement of poverty eradication and create lasting value to society”¹. This goal takes reaffirms the government’s commitment to; 1) ensuring that the oil and gas resources benefit Ugandan’s socially and economically, and 2) exploiting the resources in a sustainable manner, that meets the needs of the currently generation without compromising the ability of the future generations to meet their social, economic and environmental needs.

With the sector transitioning from the exploration phase to the development phase, we as Civil Society Organizations, are equally committed to ensuring that Uganda’s oil and gas developments do pose a threat to the socio-economic life style of Ugandan. More so, we are resolved to advocate for sustainable exploitation of these resource by protecting our rich environment, eco systems and biodiversity.

It is upon this backdrop that upon National Environment Management Authority (NEMA) calling for public review and scrutiny of the Environmental and Social impacts of the Tilenga project, that we constituted a technical team of experts to review all the volumes of the Tilenga ESIA. Working through CSCCO and ENR, we were also able to solicited for reviews, comments, analysis and recommendations from amongst the coalition and network membership, as well as other strategic partners. Beyond the CSCCO and ENR Network membership, the other partners that contributed comments to this process review process included the Canadian Bar Association(CBA), Avocats San Frontier (ASF) and the Environment Law Alliance Worldwide (ELAW).

Below is a table of the issues that were identified, the reference to the volumes of the ESIA where the identified issue is found, and our recommendation for addressing the issue.

¹ The Republic of Uganda, National Oil and gas Policy, 2008, at p.21

II. General comments

No.	Issue	Reference:	Recommendation
1	<p>Lack of adequate project specific details in this aggregated ESIA report</p> <p>The ESIA covers over 12 independent projects, each of which would otherwise require an independent EIA. However, the report does not provide adequate analysis of project specific impacts and hence does not provide adequate impact mitigation plans.</p> <p>For instance: The construction of road C-2 which is a 10km road, a bridge to carry materials, another road C-3 near the ferry crossing point to " transport staff from their operations".</p>		<p>Analysis of project specific impacts and adequate mitigation plans must be in place before the approval of the ESIA Report.</p> <p>This lacuna provides a justification for rejection of the report until this detail is provided</p>
2	<p>The ESIA does not underscore the danger of proceeding with oil development decisions in absence of adequate legal framework. The current laws and policies cited in the ESIA do not adequately address the oil and gas Issues, and are currently under review.</p> <p>E.G</p> <ol style="list-style-type: none"> 1. The National Environment Management Policy 2. The national Water Policy 3. The National Fisheries Policy 4. The National Environment Act 	Vol. 1 Chapter 2 page 2 -1	<p>The ESIA should take cognizance of the fact that the laws are under review. Whereas the ESIA report provides for responsiveness to the anticipated standards and guidelines associated to the new laws and policies, it should commit to abide by the reviewed laws and policies.</p>
3	<p>Trans boundary Concerns</p> <p>The ESIA report does not have sufficient analysis of the trans boundary implications of the project. Given that the project is located near shared resources e.g. the River Nile which is shared with other riparian states and the Lake</p>	Vol. 1 Page 2-31	<p>The report should have a comprehensive analysis of the negative trans boundary implications of the project in order to provide for adequate mitigation measures</p>

	Albert which is shared with DR Congo.		
4	ESIA presented a lot of data gaps (such as water quality data, air quality, wildlife noise limits among other pointing to lapses in MDAs as far as data collection and information provision is concerned	Section?	A lot of these data exist either within the MDA archives and the JVPs e.g. the Albertine Graben Environment Baseline Monitoring report 2015 by NEMA. Also MWE has water monitoring stations within the Albertine.
5	<p>There is inadequate analysis on the implications of water abstraction from lake albert.</p> <p>The ESIA Report undermines the implications of water abstraction on the water in Lake Albert. The report sights that the project will only require a total volume of 0.034% of the annual outflow from lake Albert and considers this amount to be negligible in volume, and the potential impacts insignificant.</p> <p>This presupposes that there will be consistent inflow of water into the Lake during the project life time. Yet it is a known fact that the Glaciers on Mt. Ruwenzori, which are the major source, have significantly reduced.</p> <p>Potential disturbance to marine life in lake Albert is not factored in the analysis done.</p>	Vol. 5 page 22-6	Further analysis must be done to establish the risk posed by the water abstraction in view of the water inflow and outflow into lake Albert, before the report can be approved.
6	<p>ESIA provides a number of limitations in different sections of the document without providing redress approaches or measures of addressing such limitations</p> <p>E.G.</p>	Vol. 2, Section 9.7.2, page 9-52, Section 7.3	The ESIA report consultants should acquire the missing data and analyze provide guidance on how to overcome these data limitations

	<ul style="list-style-type: none"> lack of national and international standards on eco-receptors) Lack of pumping test data for boreholes which could easily have been established by this study. <p>The conclusions made being on inadequate data are not be relied upon.</p>		More reliable data should be acquired and analyzed before the report is approved.
7	<p>The ESIA does not provide sources of information such as base maps and data provided in tables.</p> <p>Indicating the source data enables the review to assess the credibility and reliability of the maps and tables in the report</p>	Mainly observed in Volume III	<p>Clearly indicate if presented information is from primary data or secondary data. For secondary data indicate source of data or the report from which a figure has been adopted so that a reviewer of future user of the ESIA can know where to get further information about the subject matter at hand.</p> <p>Avoid issues of plagiarism e.g. Figure 13-5. Maintain logos of parent maps where possible</p>
8	<p>The rationalization of the proposed new roads in the National Park</p> <p>For instance: The construction of road C-2 which is a 10km road, a bridge to carry materials, another road C-3 near the ferry crossing point to " transport staff from their operations".</p> <p>There are existing road networks that could be improved to serve the project. The new roads C-2 and C-3 increase the environmental footprint and habitant uptake of the project.</p>	Vol. 1 Page 4-30 and Figure 4-12 on page 4-32	Analysis of project specific impacts and adequate mitigation plans for the roads must be in place before the approval of the ESIA Report.
9	<p>Lack of GPS coordinates for the locations</p>	Vol. 2 Table 7-10	The ESIA report should provide accurate GPS coordinates before the approval of the report

The ESIA report lacks GPS coordinates which are useful for verification of data and future monitoring.		
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III. Specific issues

In this section, comments are presented separately for each category of issues as presented by volume. Issues in Volumes One and Five are included in the corresponding thematic volumes.

Volume 2

Issue	Reference	Recommendation
<p>Limited analysis of negative impacts on air quality beyond the project area</p> <p>The ESIA report assumes the extent of impact on air quality will be within the boundaries of the project area. The report does not factor in the trans-boundary (across districts, across countries) movement of contaminated air due air movements (wind, pressure differences).</p> <p>The secondary data used was for Isimba and Agago Hydropower project which are far away from the project area. Impact estimates and proposed mitigation are therefore not accurate.</p> <p>This limitation in the analysis of the negative impacts has a bearing on the mitigation measures proposed by the report.</p>	<p>Vol. 2 Chapter 6, Section 6.4</p> <p>Vol 2, Chapter 6, Section 6.6.2.4</p>	<p>The ESIA report should provide clear mitigation mechanism that address the negative impacts on air quality beyond the project area, prior to approval of the report.</p> <p>The consultants should consider impacts across districts and across countries</p> <p>Review entire section based on appropriate data collected.</p>
<p>Inappropriate data is used to analyze climate</p> <p>The climate data used in the ESIA study is from Bugoma, Kisinja and Mbegu. These areas belong to a different climatological zone from the project area. The more appropriate data should have been from Butiaba and Pakwach.</p> <p>Baseline condition on climatological regions or zones is wrong. Impacts and mitigations identified using that data are therefore wrong.</p> <p>There is no indication of where the climate monitoring data was derived from</p>	<p>Vol. 2, section 6.5.3.4.2</p> <p>Vol. 2, Chapter 6, Section 6.6.2</p>	<p>The ESIA report should be based on the appropriate data which is Pakwach and Butiaba</p>

NOISE AND VIBRATION			
	<p>The ESIA report does not provide analysis of negative impacts of noise and vibration on ecological receptors in the project area.</p> <p>The report notes that there are no national or international guidance relating to noise and vibration impacts on ecological receptors. Absence of guidelines does not justify failure to analyze existing data and information to provide mitigation measures.</p>	Vol 2, Chapter 7, Section 7.3.1	The ESIA report should provide clear mitigation measures based on analysis of available data and information
	Air quality and Climate		
	<p>The ESIA report does not provide for the impact identification criteria used. The absence of this criteria makes it difficult to make a decision on impacts cause and sensitivity</p>	Table 6-1	Clarify on the methodology of arriving at the impacts
	<p>Results not representative of all sources of portable water. It considers only boreholes and yet there are other sources of ground water such as spring wells, known locally as <i>ensulo</i>.</p> <p>Wetlands are replenished by two water sources (surface runoff and ground water).</p>	Table 9-10, Page 9-42	Test water in the wetlands, take samples from spring wells (<i>ensulo</i>)
	<p>Reduction in water volume as a result of obstruction and abstraction not considered as a potential impact.</p>	Vol 2, Section 9.8.2	Include reduction of water volume at the water sources as result of physical obstruction and abstraction of the water resource

Volume III: Terrestrial Wildlife

Issue	Reference:	Recommendation
<p>Inadequate analysis effectiveness of Wildlife Crossing structures</p> <p>The study recommends use of wildlife crossing structures but there is limited analysis and guidance on where they could be located based on existing studies. E.g studies on Habitant preference and seasonal movement carried out by Total E&P, and animal distribution data held by institutions such as UWA, Nature Uganda, Makerere University, WCS and JVP</p> <p>There is also no mention of benchmarking other places where this has worked. Maps of migration routes and animal congregation sites should be related to planned</p>	Page 68, Section 6.3.3.3 -	The ESIA report should identify potential areas of location of the wildlife crossing structures within the project area.

infrastructure developments to define suitable animal crossing points.		
<p>Potential impact on wildlife is misreported/ underestimated</p> <p>The study misrepresents the project area as if it is wholly located outside the Protected Areas.</p> <p>For instance, report mentions that. “The potential impacts on species are concentrated in Landscape Contexts A (the MFNP), B (Savanna Corridor), C (Lake Albert and associated wetlands) and F (Mixed Landscapes). This is mainly due to the presence of protected habitats and forest species of conservation concern scattered within these areas. Impacts on such species are not likely to be major or widespread because the proportion of these areas that will be directly affected by the Project is relatively small compared to their overall capacity. Where the significance of potential impacts for species or habitats is defined as moderate this is reflection of the relative sensitivity of these specific receptors.”</p>	Vol. 6, Appendix 04	The report should not be approved until a proper analysis that properly makes use of the already existing literature on wildlife distribution and critical habitats, is carried out
<p>The report proposed to establish buffer zones instead of describing them.</p> <p>Buffer zones are not described. The ESIA rather states that Buffer zones will be established to protect watercourses and habitats.</p> <p>Although there are buffer zone distances recommended in the law, they were developed in consideration of human impacts e.g. agriculture.</p>	Vol 3, Page 13-81, Table 13-23	<p>1. The report should comprehensive describe the buffer zones for water resources and habitats as opposed to committing to establish them at a future date.</p> <p>2. There should be specialized hydrological modeling to define suitable buffer zone distances for oil and gas developments.</p>

Volume IV: Social aspects

Issue	Reference	Recommendations
<p>Non recognition of indigenous groups.</p> <p>There are communities in the project area including the Bagungu, Bakobya, the Batiaba and the Bakibiro who fit in the description of the indigenous</p>	Vol 1; page 2-39	The ESIA should recognize the indigenous peoples living in the project area, and accord them

communities. However ESIA report does not cover them, hence no measures are provided to protect their rights and freedoms.		commiserate protection of their rights and freedoms pursuant to performance standard 7 of the IFC
Conflicting Grievance handling Mechanisms The grievance handling mechanism in the ESIA report does not show how it will relate with the existing grievance mechanisms. They also conflict with the existing mechanisms e.g. district leaders being part of the committees responsible for dispute resolution at the district	Vol 1; page 5-12	The ESIA should establish links between the traditional justice systems and the project specific grievance handling mechanism
Relegation of customary tenure to inferior status The ESIA report does not recognize customary land tenure system as equal to other land tenure systems. E.g, when it comes to compensation, customary owners are paid less compared to owners under the other land tenure systems.	Vol 4; Page 16-161	The project should consider customary owners in the same light as other tenure systems
The mandatory ESMP is incomplete. This is not a small, short term, low impact project but rather a very large, long term, high impact project. Consideration should be made to take care of mitigation measures for residual impacts (influx management strategy, offset management strategy, biodiversity and ecosystem services strategy).	Vol 5. Chapter 23, page 23 -2	The ESIA be stayed until all the necessary requirements that make the ESMP complete are provided.
Inadequate adaptation mechanism for nationals The ESIA report addresses impacts associated with influx of people but does not address the culture and orientation of people when resettled. Whereas the ESIA focuses on cultural integration of non-Ugandan citizens, it does not provide for cultural integration for nationals from other regions or the PAPs who opt for relocation.	Vol 4; 16-75. Also look at Vol 1; 5-20	The ESIA report should have clear mitigation mechanisms for adaptation of PAPs and local (national) workers from other regions.