**Oversight Report of the Portfolio Committee on Water and Sanitation to the Vhembe District Municipality, Limpopo, Dated 29 November 2022**

The Portfolio Committee on Water and Sanitation (the Portfolio Committee) undertook an oversight visit from 28 to 29 October 2022 to the Vhembe District Municipality in Limpopo to engage a petition from the Nandoni Complaints Resolution Committee (the Committee), and reports as follows:

**Delegation: Mr R Mashego, Ms G Tseke, Ms N Sihlwayi, Ms M Petersen, Ms M Matuba, Advocate Masutha (ANC), and Ms R Mohlala and Ms S Mokgotho (EFF).**

**Support Staff: Mr V Ramaano (Stand-in Committee Secretary), Ms S Dawood (Content Advisor), Mr T Manungufala (Researcher) and Mr J Mahlangu (Committee Assistant).**

**The Executive Mayor, Mr D Nenguda, councillors and other officials from the Vhembe District Municipality, together with the officials from the Department of Water and Sanitation were also in attendance during the 2-day oversight visit.**

**1. Background**

Mr Baloyi, the representative, submitted a petition (Annexure 1) to the Speaker of the National Assembly and Chairperson of the National Council of Provinces, Parliament of the Republic of South Africa, on 13 April 2022. His submission highlighted the challenges experienced by communities that were displaced by the construction of the Nandoni Dam by the then Department of Water Affairs and Forestry in 1998.

The petition related to the following issues – the impact of the relocation in respect of compensation, structural damage to houses built by the Department, under-located households, lack of proper toilet facilities, control of safe access to and security around the dam, de-bushing of the area around the dam, replacement of domestic animal enclosure, fencing, provision of water and sanitation infrastructure, relocation of graves, mitigation of negative social and cultural impact, implications and impact of the setting up of a Trust Fund under the auspices of the traditional council, incorrect measurement of maize fields, irregular payment, and alternative land.

Constitutionally and according to the Rules of Parliament, a referral of a petition by any affected individual or community must be prioritised by the specific committee that the Speaker refers the matter. Section 56 (d) and 69 (d) of the Constitution, read with the Rules of the National Council of Provinces and National Assembly, provides for the National Assembly and the National Council of Provinces to receive petitions, representations or submissions from any interested persons or institutions.

Public participation in Parliament's law-making, oversight and other processes is an important constitutional provision of our democracy. Parliament has developed several ways to promote public involvement in the institution's work. The way in which the public can exercise their right to participate in Parliament is by submitting a petition. Procedures for dealing with petitions are set in the rules of the National Assembly and the National Council of Provinces.

On receiving the petition from the Speaker to the Chairperson of the Portfolio Committee on Water and Sanitation on 13 April 2022, the Portfolio Committee held a preliminary briefing presented by the content advisor on 23 September 2022 on the timeline of events, the recommendations highlighted by the Office of the Public Protector and responses to the requests by the Department of Water and Sanitation.

Members of the Portfolio Committee resolved that an oversight visit be scheduled to first listen to the concerns of the affected communities through its representative, Mr Baloyi, and receive responses from the Department of Water and Sanitation on strategies utilised thus far to address the afore-mentioned challenges identified by the Nandoni Complaints Resolution Committee. In-loco site visits of housing and water and sanitation projects provided an overview of the nature of complaints with insights offered by the Department of Water and Sanitation on mechanisms in place to address and timeframes to finalise all aspects related to the challenges highlighted by the Nandoni Complaints Resolution Committee.

This report serves as a response to the Speaker on how the Portfolio Committee on Water and Sanitation engaged the representative, Mr Baloyi, on behalf of the Nandoni Complaints Resolution Committee in respect of the issues raised in the petition. The methodology used was to provide a forum on 28 October 2022 for Mr Baloyi and other affected community members to offer insights and their interpretation of the challenges encountered in resolving this long-outstanding matter (spanning 1998 to date). The Department of Water and Sanitation on 28 October 2022 was thereafter afforded time to respond to each issue raised in the petition. The formal briefings were held at the Vhembe District Municipality Council Chambers in Thohoyandou, and one site visit to Giyani to assess progress on water infrastructure development to fast-track reticulation networks to surrounding communities.

One of the major challenges encountered by the Portfolio Committee on Water and Sanitation on this oversight related to the following:

* Lack of interpretation services which resulted in the meeting being delayed.

**2. Submissions by the petitioner and other affected community members with concomitant responses by the Department of Water and Sanitation in attempts to resolve the highlighted challenges**

In summary, the construction of the Nandoni Dam in 1998 in the Vhembe District Municipality affected 33 villages that had to be relocated to alternative land. The loss of communal land use resulted in villagers losing crops and fruit orchards. Four hundred and five (405) homesteads had to be relocated. The current position of the Department of Water and Sanitation is that an agreement had been reached between the affected community members, traditional authorities and the then Department of Water Affairs and Forestry on compensation for loss of crops and future economic activities, provision of alternative land and housing, relocation of graves, provision of infrastructure, transfer of funds to the Trust Fund administered by the traditional council, and installation of water pipes and taps in residential sites.

Members of the community maintained that although agreements were in place, not all conditions of the agreement were entirely fulfilled. The matter was referred to the Office of the Public Protector in 2005 and 2009. According to the Department of Water and Sanitation, compliance with the remedial measures on the Public Protector’s recommendation was accepted, and provisions were made to address all matters. The Department, however, conceded that certain aspects required further clarity at this stage of finalising the matter ten years later. The sections below provide the challenges encountered by the affected communities and, thereafter, submissions by the department on provisions for remedial actions of the earlier agreement and the systematic approach undertaken by the Department of Water and Sanitation in the last five (5) years to remedy and provide the rationale for the subsequent decisions taken.

**2.1 Compensation for loss of the use of communal land (incorrect measurement of maize fields) and loss of crops and future economic activities**

**2.1.1 Input by petitioners**

The leader of the petitioners reiterated the issues raised in the petition of the inherent anomalies in compensation for loss of income from crops and general farming activities. The basis of the arguments made by community members was that although certain community members were paid and others not paid, there were no agreements in place between the beneficiary and the Department which provided the conditions of payment, such as the value of the property, amounts to be paid, date of payment and consequences of non-payment by the Department.

The remedial actions highlighted by the Office of the Public Protector, through the then Public Protector, Mr Mushwana, in 2009, still needed to be fully complied with, as is the case on the recommendation provided for settlement of payments to all affected people in six (6) months. Concerned community members stressed the importance of setting a date for finalising compensation for all affected individuals and family members.

Tensions and contestations on the methodology used for verifying and validating outstanding information from affected parties used by the Department of Water and Sanitation posed significant concerns. The petitioners maintained that communication to obtain the outstanding information through Help Desks set at the Traditional Councils, Walk-in Centres, the Chairperson of the Nandoni Relocation Committee and the Thohoyandou District Office, excluded the direct representative, Mr Baloyi of the Nandoni Complaints Resolution Committee who represented the affected communities. The project was regarded as finalised as no further information was forthcoming. However, community members claimed that no departmental official visited or held meetings in the affected areas to address challenges nor to engage recipients on matters affecting compensation. The forums used by the Department to finalise issues are not recognised as speaking on behalf of the recipients or future recipients.

**2.1.2 Responses by the Department of Water and Sanitation**

During the verification of amounts to be paid to the affected parties, the Department experienced challenges with the outstanding information related to a small number of the affected community members needing to be more forthcoming to assist in verifying the amounts to be paid to the affected parties. Efforts were made to obtain outstanding information through Help Desks set at the Traditional Councils and Walk-in-Centres with the help of Phalaphala FM radio station, the Chairperson of the Nandoni Relocation Committee and the Thohoyandou District Office. None of these attempts proved successful, with the Department forwarding letters to the Traditional Councils and Chairperson of the Nandoni Relocation Committee to inform them of the challenges. Subsequently, the project was regarded as finalised as no further information was forthcoming. The Department, however, is committed to attending to matters of current cases with appropriate verification.

One thousand three hundred sixty-two (1362) affected parties were initially recorded, and it was discovered during verification that out of 1362, 22 were not on the revised valuation done by the Black Dot Consultant service provider. The Black Dot Consultant has been informed and started preparing the required information, which will be verified, and payments to be made to those due to be paid. Refer to table 1 for payment status.

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| **Table 1. Payment Status Report** | | | |
| **Category** | **Categories** | **Percentage** | **Comment** |
| Fully paid from 2001 to 2005 = 91 | 91 | 6,68% | No further payment will be made to the affected that were fully paid in 2001/2005. NB: the final verification is currently underway, and amounts will only be paid to those due to receive payments. |
| Paid in 2019 to 2022 = 1160 | 1160 | 85,17% | Payments made to date (1172+94 = 1266). |
| Rejected payment = 13 | 13 | 0,95% | Finance is attending to the matter. |
| Document submitted for payment = 3 | 3 | 0,22% | Payment is still to be made. |
| Vendor forms and confirmation letters = 18 | 18 | 1,32% | Vendor forms and confirmation letters have yet to be received. |
| Confirmation of ownership = 14 | 14 | 1,03% | Affected are not on previous records, while some are not affected. To finalise verification, confirmation of ownership is required before the finalisation of documents and payments thereof. |
| Mentally ill = 1 | 1 | 0,07% | No family members could be traced to source a letter of authority. |
| Repeating names = 4 | 4 | 0,29% | If names on forms are repeated, a letter is sent only to the affected to confirm ownership and finalise verification. |
| Cannot be traced = 28 | 28 | 2,06% | In these cases, the affected could not be located even after the Help Desk, and Roadshows were undertaken. The Traditional Councils are assisting the Department in locating the affected. |
| Not affected = 8 | 8 | 0,59% | No payment will be made. |
| Not on the revised report, but currently being addressed by PSP = 22. | 22 | 1,62% | Request forwarded to the Valuer-General to confirm if they are affected or not. |
| Total | 1362 |  | (amount excluding the 2001/2005 payments) |
| **Note:** It should be noted that during the finalisation of verification, it was found that 21 were not in the revised valuation report. | | | |

**2.2 Payments to the Traditional Trust Funds**

The Department paid the compensation due to the relevant Traditional Authorities for the loss of land from 2001 to 2005 into the Trust Accounts of the Traditional Authorities. The loss of land refers to communal land. In 2017, the then Director-General wrote letters to the Traditional Councils requesting them to provide the Department with Audited Financial Statements in relation to the Trust Accounts. The records show that only Mphaphuli Traditional Council responded to the letter sent by the then Director-General. The payments made to the Trust accounts for the relevant Traditional Councils are indicated in Table 2.

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| **Table 2. Payments to the Traditional Tribal Councils** | |
| **Tribal Council** | **Amount paid** |
| Mulenzhe TC | R3 986 180.05 |
| Mphaphuli TC | R2 378 113.53 |
| Tshivase TC | R89 044.45 |
| Mudabula development | R23 181,47 |

The Traditional Councils indicated that they disagreed with the compensation offered for the Communal land. The Department referred the matter to the Office of the Valuer-General (OVG) to confirm if the values paid to the Traditional Councils in 2004 were indeed market-related. The Department received quotations and vendor master forms from OVG, and the Purchase Order has been issued. The OVG will now start with the valuation process.

**2.3 Refurbishment of houses**

Refurbishment of the houses is underway. Refurbishment of houses in two of the five villages, Manini and Tshilongoma, has been completed, with the rest set to be completed by December 2022 due to delays caused by rain. Table 3 indicates the progress made thus far in the different villages. Some of the badly damaged houses were replaced by a new house. However, this process is ongoing.

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| **Table 3. Refurbishment Progress Report** | | |
| **Villages** | **Progress** | **Date of completion** |
| Manini (2) | 100% complete (2) | Completed in June 2022 |
| Tshilongoma (46) | 100% complete (46) | Completed in July 2022 |
| Dididi (7) | 86% complete (6) | To be completed by November 2022 |
| Mulenzhe (233) | 31% complete (73) | To be completed by December 2022 |
| Budeli (99) | 61% complete (60) | To be completed by November 2022 |

**2.4 Water reticulation to the households**

The Vhembe District Municipality is constructing the bulk infrastructure for water reticulation to the villages. (Tshitomboni, Tambaulate, Dididi, Mulenzhe & Jimmy Jones). The Vhembe District will be responsible for 85% of the project, and DWS Construction North will construct the remaining 15%. The scope of works for Construction North entails yard connections and extending reticulation within the villages. Completion of the project for yard connections depends on the reticulation that the Vhembe District Municipality is implementing.

**2.5 Construction of bridges**

The construction works for the road and bridge resumed after it was stopped since the Government could not issue tenders. Once Treasury resolved this matter, construction commenced and will be completed as follows: The road construction works will be completed by 23 February 2023. The only activity remaining will be the wearing course which awaits the award of the national tender for paving. The bridge construction will be completed by 30 April 2023, dependent on the award of a national tender for precast beams.

**2.6 Relocation of graves, fencing and un-relocated houses**

The Department conducted an investigation regarding the homesteads that were not relocated.  The outcome of the investigation indicates that the remaining homesteads are located outside the borders of the Nandoni Government Waterworks. These homesteads will not be relocated as they fall outside the dam boundary line of the Nandoni Government Waterworks and, thus not be affected by the water project. Regarding installing the fence around the dam, it is no longer the department’s policy to fence off dams as per Schedule 1 of the National Water Act and resource management plans.

The DWS has made an allowance for 12 graves in the Bill of Quantities. The unit has requested the positions of the graves through the Project Steering Committee (PSC) before embarking on the process. The PSC promised to show the locations within November 2022. Once the graves are located, the unit will require three months to relocate them.

**3. Oversight Visit to Giyani Water Supply Project**

The committee assessed the status of the Nandoni-Nsami Bulk Pipeline Project. It was satisfied with the progress, although there were delays and damages to the pipeline in Giyani during testing. This project was initiated to address water services challenges in Giyani by transferring water from Nandoni to augment Nsami & Middle Letaba systems. The overall progress stood at 60.80 %. The remaining excavation is about 300m; Pipe laying remaining to lay-2.5km of laying and tie-ins; Acceleration Critical Connection (1) at Mavambe, and (2) Temporal at Luvhuvu, for the end of November 2022. Final confirmation expected 20 November 2022. LNW and DWS sent a joint letter to RAL for approval of emergency wayleave for a temporal acceleration connection at Luvhuvu River.

**3.1 Refurbishment of Giyani Water Treatment Works**

The business plan for the refurbishment of 30Ml/d WTW was approved by the Department-Phase 1. The reconstruction of non-functional 6Ml/d WTW will be done in Phase 2. Business plans and technical reports for Phase 1 of the reticulation of 24 of 55 villages approved by DWS. DWS has appointed Mopani District Municipality as the Implementing Agent for both reticulation and Giyani Water Treatment Works refurbishment. To implement the project, the Department has availed a budget through the Water Services Infrastructure Grant (WSIG). Mopani District Municipality advertised and is to appoint contractors to start with the construction of Phase 1 reticulation to 24 villages and refurbishing of existing 30Ml/d Giyani WTW.

**4. Concluding Observations**

Members of the Portfolio Committee, in engaging the oral submissions of the affected communities, and written submissions by the Department of Water and Sanitation, offered substantive input on the following:

* The most contentious and acrimonious issue of compensation during the two-day visit was the criteria used by the then Department of Water Affairs and Forestry and the current Department of Water and Sanitation to accord payments to beneficiaries. The approach used for payments of compensation with departmental officials directly approaching individuals and offering them funding was deemed unacceptable, as representatives, such as Mr Baloyi, that understood the complexities of the situation, were not consulted. Community members maintained there was a reason for appointing Mr Baloyi to represent them as the trust built and negotiations would be to the benefit of affected recipients.
* The mechanisms and criteria used to establish a Trust Fund for the use of land through transferred compensation from the Department of Water and Sanitation to the Traditional Authorities and Councils require further interrogation. Furthermore, financial statements should be submitted for audit purposes on how monies in the Trust Fund were used and whether any empowerment and social initiatives for the benefit of the communities were provided.
* The many institutional changes, over time, to finalise compensation for loss of use of agricultural land and animal enclosures, housing, water and sanitation, and verification and validation of recipients from the then Department of Water Affairs and Forestry to the current Department of Water and Sanitation, the appointment of the Black Dot Service Provider, traditional councils and the Vhembe District Municipality, charged with similar functions for the duration of the process, obscured the importance of managing documentation in a centralised location for easy reference and reconciliation.
* More background information is needed on the appointment of Black Dot Consulting Services to assist the Department in verifying lawful beneficiaries. The information in the Black Dot verification report should be accessible to the coordinators and affected parties. The Department needs to provide a list of all people compensated, the criteria used in compensating them and avail the list of people who have not been compensated and those who were paid irregularly.
* It should be noted that compensation was paid to the affected beneficiaries to replace trees lost with the dam’s construction and other agricultural aspects mentioned in the Office of the Public Protector’s report. This includes the loss of food production at the time of construction. The Nandoni Relocation Action Plan was developed with the input and assistance of various departments and Traditional Councils. One thousand one hundred and sixty (1 160) affected were paid with 673 amended letters delivered to the Traditional Council. If the affected parties already compensated can prove with documentation the incorrect amounts paid, the Department of Water and Sanitation should review these cases.
* Anger by community members is justified, as there is no direct communication outlining the complexities of the matter. All affected people must be given information to understand the situation. The petitioner, Mr Baloyi, must also take up his leadership position and follow up on issues.
* The Portfolio Committee should be provided with the agreement, according to the submission by the petitioners, that provides for annual or monthly compensation. Communication on criteria used for compensation depends on several variables, such as the losses incurred in crop production, the volume of crop production or the number of animals within the household at the time of the relocation. Although compensation is not equal, nor is leased land lost as all land is under the custodianship of traditional leaders. However, incorrect or miscommunication in the processes of verification by the Department, Black Dot, and Vhembe District Municipality culminated in distrust and discord, exponentially exploding over time.
* The lengthy period, spanning over ten (10) years, to finalise the process and offer sound remedial actions, as highlighted by the Office of the Public Protector, was, as the petitioners maintained, misinterpreted by all affected parties. No final write-up by the Office of the Public Protector exacerbated the situation as there was no monitoring and evaluation of the efficacy of remedial actions and undertakings by respective stakeholders.
* The failure of beneficiaries to use relocated land productively can be attributed to the failure of the Department of Water and Sanitation to coordinate various units/branches to provide needed support on relocated land – as well as the inability to coordinate an intergovernmental collaboration for maximum support to communities. The lack of support services by national and local spheres of government to households on relocated land in terms of social, economic (creation of sustainable jobs) and agricultural development to ensure sustainable livelihoods for current and future generations.
* Relocation of communities to land without complementary programmes and much-needed water and sanitation provision for developmental support to improve their livelihoods limit the ability of the affected communities to take advantage of the benefits that the construction of the Nandoni Dam, with associated activities, promised to deliver.
* Observations about the state of houses or dwellings provided by the Department of Water and Sanitation, lack of provision of water and sanitation services and electricity reflected in some instances, shoddy work, which the Department hoped to resolve by refurbishing or repairing or rebuilding affected houses. A mechanism must be in place to monitor and evaluate the structural build of housing since inception, with an audit investigation on costs, incurred fruitless and wasteful expenditure, contractors used and related expenditure of the initial project and subsequent rebuild or refurbishment.
* The relocation of graves is a sensitive matter in African culture and should be handled with the required sensitivity.
* The Department committed that the bridge’s completion would be at the end of April 2023. Members of the Portfolio Committee and the respective departments must oversee the process to ensure the deadline is met.
* Both Mr Baloyi and Mr Netshivhambe are leaders of the community. They must engage with municipalities, respective departments, and traditional councils to evaluate the action plans and whether they align with the community's mandate and trust. Of importance, though, is that the leaders of the community have to provide information to all households on engagements with respective stakeholders.

**5. Recommendations**

After due deliberations on submissions by various stakeholders, the Portfolio Committee recommends that the Speaker of the National Assembly consider the proposed recommendations as a way forward:

5.1 Ensure the obligations of the Office of the Public Protector are timeously conducted to oversee the implementation of previous and current remedial actions on all matters raised in the petition, and provide a handover report to affected parties.

5.2 Strengthen trust and accountability by incorporating decision-making and solution- driven outcomes between the national, local and affected communities.

5.3 Restructuring or revisiting the current structure of the technical committee, to include the two representatives, Mr Baloyi and Mr Netshivambe, who serve the affected communities around the Nandoni Dam, traditional councils and officials of the Vhembe District Municipality, and Department of Water and Sanitation to ensure that decisions taken are effectively communicated to all affected parties.

5.4 The Portfolio Committee resolved that the money budgeted for the project at inception, and currently, must be audited to ascertain whether there was any fruitless and wasteful expenditure, and, if so, whether consequence management of any evidenced transgression would be investigated.

5.5 The newly established technical steering committee should provide a report on progress made on further remedial actions and whether these were adequately addressed, which will be relayed by the Department of Water and Sanitation by August 2023.

**Annexure 1: Petition from Mr Baloyi**

Sent: Wednesday, 13 April 2022, 16:22

To: Llewellynn Claassen <[lclaassen@parliament.gov.za](mailto:lclaassen@parliament.gov.za)>

Subject: Nandoni Complaints Resolution Committee

 Dear speaker of the National Assembly and chairperson of the National Council of Provinces

This serve as a petition from the communities that who were displaced by Nandoni Dam construction project. The purpose of the Nandoni dam was to construct a dam, which would provide water supplies to a number of communities in the Vhembe district. This project commenced in 1998. The main principle when the dam was constructed was that individual and communities should not be disadvantage or be worse off as the result of the development of the Dam. Communities were promised compensation which did not materialize. Policy and procedures and agreements are there. These policies and agreements were never fulfilled. We are requesting an urgent intervention from parliament. Parliament represents the people's rights. It must listen to us.

Our petition relates to the following issue and we will be happy to provide further details orally and an appropriate time. All we need now is to present our petition and get a resolution to our issue as listed below:

2.1 Compensation

2.2 Houses

2.3 Underlocated homestead

2.4 Toilet

2.5 Control of safe access to and security around the Dam.

2.6 Debushing and related matters

2.7 Installation of water pipes and taps in residential site

2.8 Replacement of domestic animals’closure

2.9 fence

2.10 Provision of infrastructure

2.11  relocation of graves

2.12 mitigation of negative social and cultural impact

2.13 Trust funds

2.14 incorrect measurement of maize fields

2.15 irregular payment

2.16 and other more documents

2.17 inspection Loco DWS support these recommendations

2.18 Alternative land

We are requesting the **portfolio committee of human settlement and water and sanitation** and the portfolio committee of COGTA to the urgently intervene to the problem of Nandoni.

Your sincerely

 Chairperson S Baloyi