ARRANGEMENT OF SECTIONS

Section:

PART I - ESTABLISHMENT OF THE EROSION CONTROL AND PREVENTION COMMISSION

1. Establishment of the Commission
2. Establishment and membership of the Governing Council
3. Tenure of office
4. Cessation of membership
5. Allowances of members
6. Powers of the Council

P ART II – FUNCTION AND POWERS OF THE COMMISSION

7. Functions of the Commission
8. Powers of the Commission

PART III - APPOINTMENTS OF EXECUTIVE SECRETARY AND OTHER STAFF

9. Appointments and duties of the Executive Secretary of the Commission
10. Tenure of office and remuneration of the Executive Secretary
11. Resignation of the Executive Secretary
12. Appointments and duties of the Executive Secretary
13. Staff of the Commission and their remuneration
14. Appointment and secondment from public service
15. Engagement of Consultants and Advisers
16. Structures of the Commission

PART IV - FINANCIAL PROVISIONS AND AUDIT

17. Pensions and Gratuity
18. Provision of superannuation
19. Application of funds of the Commission
20. Power to accept gift
21. Power to borrow

22. Annual estimates and expenditure

23. Proper account to be kept by the Commission

24. Audit

25. Annual report

26. Power to acquire land

PART V - MISCELLANEOUS PROVISIONS

27. Limitation of suits against the Commission

28. Service of documents

29. Restriction on execution against property of the Commission

30. Indemnity of officers

31. Engagement of professionals other than staff

32. Power of Minister to give direction to the commission

33. Regulations

34. Interpretation

35. Citation

SCHEDULE

A BILL

FOR

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE EROSION CONTROL PREVENTION COMMISSION AND VEST IT WITH THE RESPONSIBILITY FOR THE PREVENTION CONTROL, MANAGEMENT AND REDRESS OF EROSION AND FOR RELATED MATTERS

Sponsored by Senator Hope Uzodinma

[ ] Commencement

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

PART I - ESTABLISHMENT OF THE EROSION CONTROL AND PREVENTION COMMISSION

Establishment of the Commission

1.-(1) There is established a body to be known as Gully Erosion Control and Prevention Commission (in this Bill referred to as "the Commission").

(2) The Commission shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

Head office of the Commission

(3) The Head office of the Commission shall be in Abuja with operational Offices in Imo, Anambra, Abia, Enugu, Ebonyi, Edo, Akwa Ibom, Bayelsa, Delta Cross River, Rivers, Ekiti, Lagos, Ogun, Ondo, Osun, Oyo and Benue.

Establishment and membership of the Governing Council

2.-(1) There is established a Governing Council for the Commission (in this Bill referred to as "the Council") which shall be responsible for the discharge of the functions of the Commission.

(2) The Council shall consist of:

(a) a chairman;

(b) a representative each from the states set out in section 1 (3);

(c) A representative of the Federal Ministries in charge of:

(i) Environment;

(ii) Transportation;

(iii) Works;

(iv) Agriculture and Rural Development;

(v) Finance;

(vi) Mines and Steel, and

(vii) National Planning.

(d) The Executive Secretary of the Commission.

(e) Two representatives of recognised professional associations of environmentalists in Nigeria.

(3) The Chairman and members of the Council of the Commission shall be :

(a) Appointed by the President on the recommendation of the Minister subject to the confirmation by the Senate;

(b) Persons of proven integrity, honour and ability; and

(c) Part-time members except the Executive Secretary who shall be a full-time member.

Schedule

(4) The supplementary provisions set out in the Schedule to this Bill shall have effect with respect to the proceedings of the Council and other matters contained therein.

Tenure of Office

3. The Chairman and members of the Council other than the Executive Secretary shall each hold office:

(a) for a term of 4 years and may be re-appointed for a further term of 4 years and no more; and

(b) on such terms and conditions as may be specified in their letters of appointment.

Cessation of Membership

4.-(1) A person shall cease to hold office as a member of the Council on the occurrence of any of the following:

(a) he becomes bankrupt, suspends payment or compounds with his creditors;

(b) he is convicted of a felony or any offence involving dishonesty or fraud;

(c) he becomes of unsound mind or is incapable of carrying out his duties;

(d) he is guilty of a serious misconduct in relation to his duties;

(e) in the case of a person who possesses any professional qualification and he is disqualified or suspended, other than at his own request from practicing his profession in any part of the world by any order of a competent authority made in respect of that member; or

(f) he resigns his appointment by a letter addressed to the President.

(2) Where a member of the council ceases to hold office for any reason whatsoever, before the expiration of the term for which he is appointed another person representing the same interest as that member shall be appointed to the Council for the expired term.

(3) A member of the Council may be removed by the President on the recommendation of the Minister if he is satisfied that it is not in the interest of the Commission or the public that the member continues in office.

(4) Where a vacancy occurs in the membership of the Council, it shall be filled by the appointment of a successor to hold office for the remainder of the term of office of his predecessor.

Allowances of members

5. Members of the Council shall be paid such allowances and expenses as the Government may direct from time to time.

Powers of the Council

6. The Council shall have power to :

(a) manage and superintend over the affairs of the Commission;

(b) make, alter and revoke rules and regulations for the effective running of the Commission;

(c) employ and pay the staff of the Commission such remunerations and allowances as payable to persons in similar organization

in the country;

(d) enter into contracts and do such other things as may be necessary or expedient for the discharge of its functions and ensure the efficient performance of the functions of the Commission; and

(e) receive, disburse and account for funds of the Commission.

PART II - FUNCTIONS AND POWERS OF THE COMMISSION

Functions of the Commission

7. The Commission shall:

(a) carry out an extensive survey of the extent of gully erosion in the country;

(b) manage, control redress and prevent gully erosion in the country;

(c) formulate policies and guidelines for the prevention, control and management of gully erosion in the country;

(d) advise on balanced and responsible use of land in the country;

(e) conceive, plan and implement in accordance with set rules and regulations projects and programmes for gully erosion prevention, control and management;

(f) co-ordinate and promote research activities relating to gully erosion control, management and prevention;

(g) adopt an integrated approach addressing the physical, biological and socio-economic aspects of the process of gully erosion;

(h) monitor the state of preparedness of all organisations or agencies which may contribute to the control of gully erosion;

(i) integrate strategies for poverty eradication into the process with participation of affected local communities;

(j) educate and inform the public on gully erosion prevention and control measures.

(k) examine and implement innovative ways of promoting alternative livelihoods including training in new skills;

(i) collate data from relevant agencies so as to enhance planning and field operation of gully erosion prevention, management and control;

(m) cooperate with relevant inter-governmental organisations;

(n) facilitate through International cooperation the transfer of technology knowledge and know how on the prevention, control and management of gully erosion;

(o) ensure sound and efficient management of the resources available to the Commission from the Federation Account;

(p) receive financial and technical aid from international organisations and non-governmental agencies for the purpose of prevention management and control of gully erosion;

(q) carry out such other functions as the President may from time to time direct.

Powers of the Commission

8.-(1) The Commission shall have power to do anything which will facilitate the carrying out of its functions and in particular may:

(a) sue and be sued in its corporate name;

(b) acquire, hold, manage and alienate movable and immovable property;

(c) monitor and control gully erosion in the affected areas;

(d) enter into contracts for the prevention, control and management of all gully erosion problems;

(e) purchase or acquire any asset, business or property considered necessary for the proper conduct of its functions;

(f) sell, let, lease or dispose of any of its property;

(g) undertake or sponsor research where necessary for the performance of its functions; and

(h) train managerial, technical or other category of staff for the purpose of running the affairs of the Commission;

(i) enter into partnerships, combines, relationships, understandings, agreements and joint ventures for the purpose I carrying out any of the functions.

(2) The powers conferred on the Commission may be exercised by

it or through any of its officers, employees, agents authorized in that behalf by the Commission.

PART III - APPOINTMENT OF EXECUTIVE SECRETARY AND OTHER STAFF OF THE COMMISSION

Appointment and duties of the Executive Secretary of the Commission

9.-(1) There shall be an Executive Secretary of the Commission who shall be appointed by the President.

(2) The Executive Secretary shall:

(a) be the chief executive and accounting officer of the Commission; and

(b) be responsible to the Council for the execution of the policies and the administration of the daily affairs of the Commission.

Tenure of and office term of remuneration of the Executive Secretary

10.-(1) The Executive Secretary shall be appointed for a term of 5 years in the first instance and may be r appointed for a further term of 5 years and no more, subject to satisfactory performance.

(2) The Executive Secretary shall:

(a) be paid such remuneration as may be prescribed in his letter of appointment; and

(b) ensure compliance with the provision of section 21 of this Act relating to power to borrow.

Executive Secretary

11. The Executive Secretary shall hold office on such terms and conditions as are specified in his letter of appointment, and may resign his appointment by writing under his hand delivered to the Minister.

Appointment and duties of Administrative Secretary

12. The Council shall appoint for the Commission an Administrative Secretary who shall:

(a) be a legal practitioner and is so qualified for a period of not less than 10 years;

(b) keep the records of transactions and correspondence of the Commission; and

(c) perform such other functions as the Councilor Executive Secretary may direct.

Staff of the Commission and their functions and remuneration

13. The Council shall appoint for the Commission such number of employees as may in the opinion of the Council be expedient and necessary for the proper and efficient performance of the Commission and pay them remuneration and allowances as it determines.

Appointment and Secondment from Public Service

14.-(1) Notwithstanding the provisions of sections 12 and 13 of this Act, the Council shall have power to appoint for the Commission either directly or on secondment from any public service in the Federation, of employees may, in the opinion of the Council be required to assist the Commission in the discharge of any of its function under this Act.

(2) The person seconded under this section may elect to be transferred to the service of the Commission, and al previous service he may render in the public service shall count as service to the Commission for the purpose of al pension subsequently payable by the Commission.

Engagement of Consultants and Advisers

15. Without prejudice to the provisions of sections 13 and 14 of this Act, the Council may engage such consultant and advisers as it may require for the effective discharge of the functions of the Commission.

The structure of the Commission

16.-(1) There shall be established in the Head Office of the Commission, the following Departments:

(a) Administration and Finance;

(b) Education and Public Awareness;

(c) Works and Services;

(d) Planning, Research and Statistics;

(e) Monitoring and Evaluation; and

(f) Legal Services.

(2) The Council shall set up its own monitoring panel to monitor the projects being executed by the Commission.

(3) The Council, may with the approval of the President, increase the number of Departments as it may deem necessary and expedient to facilitate the realization of the objectives of the Commission.

PART IV - FINANCIAL PROVISIONS AND AUDIT

Pensions and Gratuity

17. The staff of the Commission shall be entitled to pensions, gratuities and other retirement benefits as are enjoyed by persons holding equivalent grade in the Civil Service of the Federation.

Provision of Super-annuation

18. The Commission shall pay gratuities or provide and maintain superannuation scheme (whether contributory or not) for the employees.

Funds of the Commission

19.-(1) The Commission shall establish and maintain a fund into which all moneys accruable to the Commission shall be paid and from which all the activities of the Commission shall be funded.

(2) There shall be paid and credited to the fund:

(a) all moneys in the accounts of the Ecological Fund relating to the states affected by erosion;

(b) Federal Government contribution to the Fund of the Commission equivalent of 100 percent of the total money due to member state of the Commission from the Ecology Fund;

(c) donations, gifts, grants and testamentary disposition from individuals or corporate organisations at home or abroad;

(d) all other assets that may, from time to time, accrue to the Commission.

(3) The funds of the Commission shall be disbursed according to the approved formula.

(4) The Commission shall apply the proceeds of the Fund established pursuant to section 19 (1) of this Act to:

(a) the cost of administration of the Commission.

(b) the payment of salaries, fees, remuneration, allowances, pensions and gratuities payable to the members of the Governing Council and the employees of the Commission;

(c) the payment of all contracts, including mobilisation, fluctuations Variations, legal fees and cost on contract Administration;

(d) the payment for all purchases; and

(e) undertaking such other activities as are connected with all or any of the functions of the Commission under this Act.

(5) The Council shall cause the accounts of the Commission to be audited quarterly and shall be externally audited once every year.

Power to accept gifts

20.-(1) The Commission may accept gifts of land, money or other property on such terms and conditions, if any, as may be specified by the person or organisation making the gift.

(2) The Commission shall not accept any gift if the conditions attached are inconsistent with the functions of the Commission under this Act.

Power to borrow

21.-(1) The Commission may, from time to time, borrow money as it may require to execute or complete some special projects of the Commission.

(2) The Commission shall not, without the approval of the President, borrow money which exceeds Nl,000,000.00 at any one time.

Annual estimates and expenditure

22.-(1) The Council shall not later than 30th September, of each year, submit to the National Assembly through the Minister an estimate of the expenditure of the Commission during the next succeeding year.

(2) The Council shall approve all expenditure of the Commission.

Proper account to be kept by Commission

23. The Commission shall:

(a) cause to be kept proper accounts and records of the transactions and affairs of the Commission and ensure that all payments out of its moneys are correctly made and properly authorized;

(b) ensure that adequate control is maintained over the assets belonging to or in the custody of the Commission and over its incurring of liabilities;

(c) prepare in respect of each financial year a statement of accounts in such forms as the Auditor-General may direct.

Audit

24.-(1) The Auditor-General of the Federation shall:

(a) inspect and audit the accounts and records of financial

transaction of the Commission;

(b) inspect records relating to assets of the Commission; and

(c) draw the attention of the Minister to any irregularity revealed and disclosed by the inspection and audit.

(2) The Auditor-General may dispense with all or any part of detailed inspection and audit of any account or record referred to in subsection.

(3) The Auditor-General or any officer authorized by him is entitled at all reasonable time to a full and free access to all accounts, records, documents and papers of the Commission relating directly or indirectly to the receipt or payment of money by the Commission or to the acquisition, receipt, custody or disposal of assets by the Commission.

Annual Report

25. The Commission shall submit to the President through the Minister not later than 30th June, of each financial year, a report of its activities during the preceding financial year and it shall include a copy of the audited accounts of the Commission for that year and a copy of Auditors Report on it.

Power to acquire land Cap. 202 LFN

26.-(1) For the purposes of providing offices and premises necessary for the performance of its functions under this Act, the Commission may, subject to the Land Use Act:

(a) purchase or take on lease any interest in land, or other property; and

(b) construct offices and premises and equip and maintain same.

(2) The Commission may, subject to the Land Use Act, sell or lease out any office or premises held by it, which office or premises is no longer required for the performance of its functions under this act.

PART V - MISCELLANEOUS PROVISIONS

Limitation of Suits against the Commission Cap. 379 LFN

27.-(1) The provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against the Commission or any of the officers or employees of the Commission.

(2) No suit shall be commenced against a member of the Council, the Executive Secretary, officer or employee of the Commission before the

expiration of a period of one month after written notice of intention to commence the suit shall have been served upon the Commission by the intending plaintiff or his agent.

(3) The notice referred to in subsection (2) shall state the cause of action the particulars of the claims, the name and place of abode of the intending plaintiff and the relief which he claims.

Service of Documents

28. A notice, summons or other document required or authorized to be served upon the Commission under the provisions of this Act or any other Law or enactment may be served by delivering it to the Executive Secretary or by sending it by registered post and addressed to the Executive Secretary at the principal office of the Commission.

Restriction on Execution against Property of the Commission

29.-(1) No execution or attachment of process shall be issued against the Commission or its properties in any action or suit without the consent of the Attorney-General of the Federation.

(2) Notwithstanding the provisions of subsection (1) of this section, in any action or suit against the Commission, no execution or attachment of process in the nature thereof shall be issued against the Commission unless not less than three months notice in writing of the intention to execute or attach has been given to the Commission.

(3) Any sum of money which by the judgement of any Court is awarded against the Commission shall, subject to any direction given by the Court where notice of appeal of the said judgement has been given, be paid from the general reserve fund of the Commission.

Indemnity of Officers

30. A member of the Council, the Executive Secretary, any officer or employee of the Commission shall be indemnified out of the assets of the Commission against any proceedings, whether civil or criminal, in which judgement is given in his favour, or in which he is acquitted, if any such proceeding is bought against him in his capacity as a member of the Council, the Executive Secretary, officer or employee of the Commission.

Engagement of Professionals other than staff

31. The Executive Secretary may with the approval of the Council engage persons with knowledge or experience in gully erosion control and prevention or in matters relevant to the functions of the Commission to assist otherwise than on the basis of ful- time employment.

Power of the Minister to give direction

32. The Minister may give to the Commission directives of a general or special nature with respect to any of its functions.

Regulations

33. The Council may, with the approval of the Minister, make Regulations for the purpose of carrying out or giving full effect to the provisions of this Bill.

Interpretation

34. In this Bill unless the context otherwise requires:

"Chairman" means the Chairman of the Governing Council of the Commission;

"Commission" means Erosion Control and Prevention Commission;

"Council" means a Governing Council of the Commission;

"Gully Erosion" means land degradation and destruction resulting from various factors including natural causes (activities of rivers, rain, weathering) and human activities creating thereby gullies, ravines, craters, landslides and mudslide;

"Member" means a member of the Council and includes the Chairman;

"Minister" means the Minister in charge of matters relating to the Environment;

"Power" includes functions and duty; and

"President" means the President of the Federal Republic of Nigeria.

Citation

35. This Bill may be cited as the Erosion Control and Prevention Commission Bill, 2015.

SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO THE COUNCIL, ETC.

Cap. 192 LFN.

1.-(1) Subject to this Act and section 27 of the Interpretation Act, the Council may make standing orders regulating its proceedings or those of any of its Committees.

(2) The quorum of the Council shall be the Chairman or the person presiding at the meeting and five other members of the Council, one of whom shall be ex-officio member and the quorum of any Committee of the Council shall be as determined by the Council.

2.-(1) The Council shall meet whenever it is summoned by the Chairman and if the Chairman is required to do so by notice given to him by not less than eight other members, he shall summon a meeting of the Council to be held within fourteen days from the date on which the notice is given.

(2) Where the Council desires to obtain the advice of any person on a particular matter, the Council may co-opt him to the Council for such a period as it deems fit, but a person who is in attendance by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Council and shall not count towards a quorum.

Committees

3.-(1) The Council may appoint one or more Committees to carry out, on behalf of the Council such functions as the Council may determine.

(2) A Committee appointed under this paragraph shall consist of such number of persons as may be determined by the Council and a person shall hold office in the Committee in accordance with the terms of his appointment.

Miscellaneous

4.-(1) The fixing of the seal of the Commission shall be authenticated by the signatures of the Chairman or any other member of the Council generally or specifically authorized by the Council to act for that

purpose and the Executive Secretary.

(2) Any contract or instrument which if made or executed by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Commission by the Executive Secretary or any person generally or specifically authorized by the Council to act for that purpose.

(3) A document purporting to be a document duly executed under the seal of the Commission shall be received in evidence and shall unless and until contrary is proved, be presumed to be so executed.

5. The validity of any proceedings of the Council or of a Committee shall not be adversely affected by:

(a) a vacancy in the membership of the Council or Committee;

(b) a defect in the appointment of a member of the Councilor Committee;

(c) reason that a person not entitled to do so took part in the proceedings of the Councilor Committee.

EXPLANATORY MEMORANDUM

This Bill seeks to provide for the establishment of the Erosion Control and Prevention Commission as a statutory body and to vest it with the responsibility to prevent, manage, control and redress erosion in the affected States.