

Mr. Speaker,

Fellow Honourable Members,

NOTICE OF PRESENTATION OF A BILL

I wish to bring to the notice of Mr. Speaker to bring in a Bill for a Law to Provide for the Establishment of Legal Rights for the River Ethiope, to Codify the Delta State Recognition of the River Ethiope’s Fundamental Rights and Legal Standing, for the Protection and Enhancement of the River Ethiope in Delta State and for Related Purposes.

Dated this.....Day2024.

Sponsored By:

Rt. Hon. Akpowowo Arthur

Deputy Speaker and Member Representing Ethiope East Constituency

A BILL

FOR

A LAW TO PROVIDE FOR THE ESTABLISHMENT OF LEGAL RIGHTS FOR THE RIVER ETHIOPE, TO CODIFY THE DELTA STATE RECOGNITION OF THE RIVER ETHIOPE’S FUNDAMENTAL RIGHTS AND LEGAL STANDING, FOR THE PROTECTION AND ENHANCEMENT OF THE RIVER ETHIOPE IN DELTA STATE AND FOR RELATED PURPOSES.

[] Commencement

Enacted by the Delta State House of Assembly as follows;

PART I:

PRELIMINARY

1. This Law may be cited as the Recognition of Legal Rights of River Ethiope Law, 2024. Short title

2. In this Law, unless the context otherwise requires: Interpretation

“Authority” means River Ethiope Guardian Authority

“Bed” in relation to River Ethiope means

- (a) the space of land that the water of the River Ethiope cover at its fullest flow without overtopping its banks; and
- (b) soil the subsoil the plants attached to the bed, the space occupied by the water, and the air space above the water.

“Chief Guardian” means the Chairman and Chief Executive of the River Ethiope Guardian Authority;

“Health and Well-being” includes environmental, social, cultural and economic health and well-being;

“Historical Claims” means Claims based on traditional religious beliefs as it relate to the River Ethiope held by the local communities within the catchment Areas of the River Ethiope

“Ministry means Ministry of Arts, Culture and Tourism

“Pollutant” means any chemical, physical or biological material capable of polluting the Ethiope River

“Pollution” includes man-made or man aided alteration of chemical, physical or biological quality of the River Ethiope to the extent that is detrimental to the health of the River and Human alike.

“Relevant Local Authorities” means the local authorities comprising River Ethiope;

“Relevant Local Government Legislators” means any Legislation regulating the operation, procedure, decision-making and the conduct of members of a local authority joint committee including:

- (a) the Local Government Law, 2013;
- (b) the Local Government Official Gazettes;
- (c) the Local Authorities.

“Ethiope River” other than in relation to the matters provided in this Law means

- (a) the body of water known as the River Ethiope that flow continuously or intermittently from its source in Umuaja in Ukwani Local Government and flows through six local Government Areas of Ukwani, Ehtiope East, Okpe , Sapele , Ethiope

- West and emptied into the Atlantic Ocean through the Benin River at Ajagbodudu in Warri North Local Government Area of the state; and
- (b) all tributaries, streams, and other natural water course that flow continuously or intermittently into the body of water embedded in paragraph (a) and located within the Ethiope River Catchment; and
 - (c) all lakes and wetlands connected continuously or intermittently with the bodies of water referred to in paragraphs (a) and (b) and all tributaries, streams and other national water courses flowing into those lakes and watersheds; and
 - (d) the beds of the bodies of water described in paragraph (a) to (c).

“River Ethiope Catchment Area” means shown as titled as the river Ethiope and covers; Umuaja, Umutu, Ebede, Umukwata, Obinoba and Obiaroko in Ukwani Local Government: Umeghe 1 and 2 -Abraka, Urhuoka-Abraka, Abraka P.O, Urhovie-Abraka, Erho-Abraka, Orhia-Abraka, Eku, Igun and Okpara-Waterside in Ethiope East Local Government: Orerokpe, Oha, Aghalokpe and Aragba in Okpe Local Government: Amukpe and Sapele in Sapele Local Government: Oghara and Jesse in Ethiope West Local Government and Ajgobodudu in Warri North Local Government.

“Waste” means any substance , gas, or matter that contaminate, pollutes, adversely interferes with the Ethiope River either alone or in combination with others when brought into contact and include escape from its usual place in whatever manner of any such substance, gas or matter.

“working day” means a day in the period commencing from January and ending December 31st as declared by the Federal Republic of Nigeria.

3. (1) From the commencement of the Law, River Ethiope is a living entity possessing inalienable rights set forth herein, which arise from its very existence. River Ethiope as a Legal Entity.
(2) The River Ethiope possesses a Legal entity as an infant under the law therefore the River Ethiope Guardian Authority shall ensure the protection of its inalienable rights ; The River Ethiope Guardian Authority shall be :
 - (a) a body corporate with perpetual succession and a common seal;
 - (b) have power to sue and be sued in the name of River Ethiope and or in its corporate name; and
 - (c) be capable of holding, purchasing, acquiring, holding and disposing of movable and immovable property.

4. River Ethiope shall possess at minimum the following fundamental rights: Fundamental Rights of River Ethiope
 - (a) The right to flow;
 - (b) The right to perform essential functions within its ecosystem;
 - (c) The right to be free from pollution;
 - (d) The right to feed and be fed by sustainable aquifers;
 - (e) The right to native biodiversity;
 - (f) The right to registration;
 - (g) The right to clean ecosystem;

(h) The right to existence;

5. (1) From the commencement of this Law, the legal guardian shall enforce the fundamental rights of River Ethiope as provided in Section 4 of this law.

ENFORCEMENT
OF THE
FUNDAMENTAL
RIGHTS.

(2) The Rules and Procedure in the enforcement of these rights shall be The Fundamental Rights(Enforcement Procedure) Rules presently in force,

APPLICABLE
RULES

(3) The High Court of the State shall exercise exclusive jurisdiction over all matters relating to the Rights of the River Ethiope and appeal arising from the decision of the High Court shall lie at the Court of Appeal and the decision of the Court of Appeal shall be final save for solely issue touching on the Constitution of the federal republic of Nigeria that Appeal from the Court to Supreme Court maybe entertained.

JURISDICTION OF
COURT

6. (1) Without prejudice to any other Law, the fundamental rights of River Ethiope shall ensure the health and well being of River Ethiope and its tributaries, watershed, the river basin including flow, constituents organization, catchment and stream bed.

The Health and Well
Being of River
Ethiope.

(2) The River Ethiope shall have its best interest assessed and taken into consideration by the Governments of the Federal Republic of Nigeria, the Delta State Government and Private Entities from time to time in its activities and decisions concerning River Ethiope.

7. The fundamental rights of River Ethiope as provided in Section 4 of this Law shall not prohibit recreational, commercial and religious uses which shall be conducted

Recreational,
Commercial and
religious activities

responsibly, except where otherwise prohibited by any other law, or regulations.

8. (1) There shall be established for the River Ethiope , Establishment of a Legal Guardian for River Ethiope. Legal Guardian to be known as River Ethiope Guardian Authority who shall ensure the full implementation and enforcement of the fundamental rights and interest of River Ethiope and shall exercise :

- (a) the rights and powers of the River Ethiope;
- (b) Represent River Ethiope in any legal proceedings;
- (c) Enter into contracts on behalf of the River Ethiope;
- (d) Uphold the rights of the River Ethiope as provided in Section 4 of this Law;
- (e) Always act and in accordance with the best interest of River Ethiope health and well being;
- (f) Act on behalf of River Ethiope; and release written statement justifying actions upholding the rights of River Ethiope.
- (g) And other functions that may be prescribe by the House of Assembly.

(2) The River Ethiope Legal Guardian Authority shall comprise the following Members:

- i. The Chief Guardian who shall be the Chairman of the River Ethiope Guardian Authority and must be a proven Environmental Conservationist with relevant educational qualification and experience.
- ii. A legal Practitioner called to the Nigerian Bar with not less than 10 years post call, all in active legal practice shall be the Secretary and Legal Adviser of the River Ethiope Guardian Authority.
- iii. A representative each from the Local Government Area of the Catchment Areas.

iv. A representative each from the Ministries of Art and Culture, Tourism and Water Resources to be appointed by the commissioners of the respective Ministries..

9. (1) The membership of the River Ethiopie Guardian Authority shall be appointed by the Governor provided the appointment of the Chief Guardian and the Secretary shall be subject to the screening and confirmation by the House of Assembly and the tenure shall be for 5 years which may be renewed but not more than one more term of five years.

Composition of the River Ethiopie Guardian Authority

(2) The appointment of persons into the River Ethiopie Guardian Authority shall be restricted to the six Local Government Areas of the Catchment Areas save for the representatives from the Ministries of Art and Culture, Tourism and Water Resources to be appointed by the commissioners of the respective Ministries

10. The River Ethiopie Guardian Authority shall:

- (a) Prescribe the amount to be paid as fees/charges on the River Ethiopie subject to the approval of the Ministry as tourism fees. The Ministry in the context is the Ministry of Tourism of Delta State.
- (b) Have power to charge commercial tariffs which may vary from one location to the other within River Ethiopie on users of structures.
- (c) Notwithstanding the provisions of Section 5 of this law and any other Law, any person who fails to pay any tariff, fee, charge or rate shall be declared a debtor and such debts maybe recovered by civil

action to be initiated by the Guardian Authority in a summary trial in Revenue court of the state.

11.(1) There is hereby established a fund to be known as the River Ethiope Development Fund. Establishment of the River Ethiope Development Fund.

(2) The Fund Management Committee established in Section 12 of this Law shall manage the Fund in accordance with the provisions of this Law.

12.(1) There shall be established a Fund Management Committee, which shall be responsible for managing the Fund. Fund Management Committee

(2) The Fund Management Committee shall consist of:

(a) The Honourable Commissioner for Culture and Tourism, who shall serve as the Chairperson.

(b) The Chief Guardian of the River Ethiope Guardian Authority, who shall be the Alternate Chairperson

(c) The Honourable Commissioner for Finance or its representative.

(d) The Honourable Attorney-General and Commissioner for Justice or its representative.

(e) Two members with expertise in the creative industries appointed by the Governor of Delta State.

(f) The Secretary of the River Ethiope Guardian Authority.

(3) Members of the Fund Management Committee appointed under subsection (2) of this section:

- (a) Shall serve for a term of three years and may be reappointed for one additional term and no more.
- (b) May resign by giving written notice to the Chairperson and may be removed by the Governor of Delta State for misconduct, incapacity, or neglect of duty.

(4) The Governor may remove any member of the Fund Management Committee for misconduct, incapacity, or neglect of duty.

(5) The Fund Management Committee shall establish its own procedures and guidelines for the effective management of the Fund and to fulfil the objectives of this Law.

13. The sources of the Fund shall include:

Sources of the Fund.

- (a) Budgetary allocations from the Delta State Government;
- (b) Grants and donations from individuals, corporations, domestic and international organisations, and other sources;
- (c) Returns on investments made by the Fund;
- (d) Repayments of loans made from the Fund; and
- (e) Any other sources approved by the Ministry.

14. The Ministry shall develop and implement appropriate incentive schemes, including tax relief, grants, and other financial incentives, to encourage entrepreneurs and workers in River Ethiope and promote the development of River Ethiope in Delta State. Incentives for River Ethiope Development.
15. The Ministry shall encourage and facilitate public-private partnerships and collaborations with stakeholders, including local and international organisations, to support the development of the creative River Ethiope in Delta State. Public-Private Partnership
- 16.(1) The Fund Management Committee shall submit an annual report to the Governor, through the Commissioner on the activities, achievements, and financial status of River Ethiope Development Fund. Reporting and Accountability.
- (2) The annual report shall be submitted no later than November 31st of each year.
17. The Ministry may make regulations for the proper implementation of the provisions of this Law. Regulations.
- 18.(1) The Ministry in consultation with the River Ethiope Guardian Authority shall formulate a development policy for River Ethiope in Delta State and review it regularly to ensure its alignment with local and international trends and the needs of the tourism and hospitality sector. Development Policy for River Ethiope.
- (2) The development policy shall include provisions for investing a portion of the River Ethiope Development Fund in the tourism and hospitality sector, encouraging collaboration between industries, government, and academia for research and talent cultivation, and

supporting the establishment of tourism hubs and clusters.

19. The Ministry shall ensure in cooperation with the River Ethiope Guardian Authority the implementing of the provisions of this Law and shall periodically review the effectiveness of the Law and the development policy for River Ethiope to ensure its continued relevance and effectiveness in promoting the growth and development of the tourism and hospitality sector in Delta State.

Implementation and Review.

20. (1) Any authorized officer, where he has reasonable grounds for believing that land, building, vehicle, floating craft or other structure whatsoever has being used to store and channel or discharge any waste or liquids into the Ethiope River can without a warrant:

Enforcement Powers, Offences and Penalties

- (a) Enter and search the land, building, vehicle, floating craft or other structure whatsoever, in which he has reason to believe that an has being used to store and channel or discharge any waste or liquids into the Ethiope River;
- (b) Perform test and take sample of any substances relating to the offence which are found on the land, building, vehicle, floating craft or other structure whatsoever;
- (c) Cause to be arrested any person whom he has reason to believe has committed such offence; and
- (d) Seize any item or substance which he has reason to believe has been used in the commission of such offence or in respect of which the offence has been committed.

(3) A written receipt shall be given for any article or thing seized under subsection (1) of this section

and the grounds of such seizure shall be stated on such receipt.

(4) Any person who---

(a) willfully obstruct any authorized officer in the exercise of any of the powers conferred on him by this law ,or

(b) fails to comply with any lawful enquiry or requirement made by any authorized officer in accordance with the provision of this law; or

(c) commits an offence and shall on conviction be liable to a maximum fine of #500,000 or to imprisonment for two years or both

Prevention of industrial pollution

21.(1) It shall be an offence for any industry, person or body of persons corporate or incorporate –

a) to discharge any waste or liquids into the Ethiope River ,

b) Nothing in this Law shall authorize any person or body of persons corporate or incorporate to construct or use any public or other sewer or any gutter or drain for the purpose of conveying any foul water or other obnoxious liquid into the Ethiope River

(2) Any person or body of persons whether corporate or incorporate, who discharges any waste into the Ethiope River in contravention of this law and any other laws commits an offence.

22. (1) Except as approved the State authorities for the purpose, the use of any chemical substance by any person or body whether corporate for fishing purposes on the Ethiope River shall be an offence.

(2) Except where the owner or operator of a vessel onshore facility or floating craft satisfactorily proves that a waste discharged into the Ethiope River was caused

solely by a natural disaster or an act of sabotage, such owner or operator of the vessel, onshore facility or floating craft from which the waste discharge emanates in contravention of section 21 of this law shall, in addition to the penalty specified in section 24 be liable for and any cost incurred by the State or Local Government or The River Ethiope Guardian Authority or their agents in the abatement or removal of the discharge.

(3) The owner or operator referred to in subsection (2) of this section, upon the occurrence of the discharge shall—

- a) promptly takes steps to mitigate any damage;
- b) give immediate notice to the Authority of the occurrence of the discharge;
- c) promptly commence clean-up operations by using the most effective and efficient methods at his disposal; and
- d) promptly comply with such directions as the Authority may give.

Dumping of waste

Liabilities of
companies and firms

23. (1) It shall be an offence;-

(a) to dump or litter broken bottles, scraps or iron and other metals and any wastes, however, in the Ethiope River ;

(b) discharges, deposits or leaves faeces or other human waste or defecate in the Ethiope river.

24. Where any offences against the Law or any regulations made thereunder has been committed by a body corporate or a member of a partnership or other firm or business, every director or other officers of that body corporate or any member or members of the partnership or other person concerned with the management of such firm or business shall, on conviction, be liable to a fine not exceeding five million naira for such offence and in addition shall be directed to pay compensation for any damage resulting from such breach thereof or to repair and restore the polluted area to an acceptable level as approved by the Authority.

Penalty for
contravention

25. Any person who contravenes any provisions of this Law or any regulation made thereunder commits an offence and shall on conviction, where no specific penalty is prescribed therefore, be liable to a fine not exceeding ₦500,000 or to imprisonment for two year.

Magistrate Court to
try offender

26. Any person or body of persons whether corporate or incorporate who commit offence under this law shall be tried summarily in the magistrate of Delta State.

