

# VEEDURIA CIUDADANA A LA RUTA DEL CACAO VCRC-4G

## BUCARAMANGA – BARRANCABERMEJA – YONDO CORRIDOR

Autonomy – Transparency – Equality – Responsibility – Objectivity – Legality

Bucaramanga, 26 December 2019

Director

### **Independent Consultation and Investigation Mechanism**

#### **Inter-American Development Bank**

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Washington, D.C. 20577

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1. The undersigned, GABRIEL RANGEL MOGOLLON, identified by national I.D. card [REDACTED] [REDACTED] from Bucaramanga, Santander, Colombia, in my capacity as Executive Director of the organization *VEEDURIA CIUDADANA A LA RUTA DEL CACAO VCRC-4G* [RUTA DEL CACAO 4G TOLL ROAD CITIZENS' WATCH GROUP],<sup>1</sup> represent the communities in the area of influence of the IDB-financed project "Ruta del Cacao Road Concession" located in the municipalities of Barrancabermeja, San Vicente de Chucurí, Betulia, Girón, and Lebrija—or BUCARAMANGA – BARRANCABERMEJA – YONDO 4G TOLL ROAD.<sup>2</sup>  
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2. We have suffered or are likely to suffer harm as a result of the IDB-MIF or the IIC's failure to comply with one or more of its Relevant Operational Policies.
  - 2.1. ENVIRONMENTAL PROTECTION: TOWARD MANAGEMENT OF ENVIRONMENTAL RISKS AND IMPACTS. The Bank applies safeguards throughout the project cycle to ensure the environmental

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<sup>1</sup> Resolution 010 of 2016; Office of the Ombudsman, Municipality of Lebrija, Santander, Colombia.

<sup>2</sup> <https://www.larepublica.co/economia/el-proyecto-4g-ruta-del-cacao-logro-cierre-financiero-por-168-billones-2787058>

<sup>3</sup> <https://www.bbva.com/es/bbva-lidera-el-cierre-financiero-de-la-carretera-ruta-del-cacao-en-santander/>

<sup>4</sup> <https://www.semana.com/economia/articulo/la-via-bucaramanga-logra-cierre-financiero/588362>

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sustainability of all Bank-financed operations. In line with sustainable development practices, the Bank takes a general precautionary approach to environmental impacts. The Bank favors avoiding negative environmental impacts; when impacts are unavoidable, Bank-financed operations require mitigation measures; and for impacts that cannot be fully mitigated, compensation or offsets should be implemented. The Bank will work with borrowers to manage environmental risks effectively and to help develop environmental management capacity, as agreed. Where, in the opinion of the Bank, the environmental risks are deemed to be too great, the Bank would support the proposed investment only once the plan for mitigation of the risks is agreed.

- 2.2. Governance risks. The governance framework for environmental management may be characterized by a deficient track record, low capacities, lack of enforcement and compliance, corruption, and lack of social acceptability to proposed government programs for possible IDB financing.
- 2.3. Any operation that is likely to cause significant negative environmental and associated social impacts, or have profound implications affecting natural resources, will be classified as Category "A." These operations will require an environmental assessment (EA), normally an Environmental Impact Assessment (EIA) for investment operations, or other environmental assessments such as a Strategic Environmental Assessment (SEA) for programs and other financial operations that involve plans and policies. Category "A" operations are considered high safeguard risk. For some high safeguard risk operations that, in the Bank's opinion raise complex and sensitive environmental, social, or health and safety concerns, the borrower should normally establish an advisory panel of experts to provide guidance for the design and/or execution of the operation on issues relevant to the EA process, including health and safety.

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3. In the implementation of the IDB-financed Ruta del Cacao Road Concession project in the municipalities of Barrancabermeja, San Vicente de Chucurí, Betulia, Girón, and Lebrija, or the BUCARAMANGA – BARRANCABERMEJA – YONDO 4G TOLL ROAD, the “IDB client,” that is, CONSORCIO RUTA DEL CACO SAS, has been committing countless environmental violations, to wit:
  - 3.1. Adverse environmental impacts on the village of La Fortuna, municipality of Barrancabermeja, Santander.
  - 3.2. Adverse environmental impacts on the village of Tienda Nueva, municipality of Betulia, Santander.
  - 3.3. Adverse environmental impacts on the rural district of Puerto Balso, in the municipality of Betulia, Santander. The Office of the Regional Ombudsman of Santander has opened a case file on these impacts.
  - 3.4. Environmental catastrophe in the village of El Líbano, in the municipality of Lebrija, Santander.
    - 3.4.1. The technical monitoring team from the Infrastructure Group of the National Environmental Permitting Authority (*Autoridad Nacional de Licencias Ambientales – ANLA*) conducted a technical visit on 29 October to the Ruta del Cacao construction project, where it was clear how RUTA DEL CACAO S.A.S. (identified with national taxpayer ID No. 900871368) was managing ZODME [Excavation Material and Debris Management Zone] Z12T5. The team found evidence of the disposal of unauthorized material at the site, as well as the inadequate functioning and clogging of the drainage and sub-drainage system, which led to the accumulation of stagnant drainage water, soil saturation affecting adjacent properties, and the uncontrolled sedimentation of nearby water sources.<sup>5</sup>
    - 3.4.2. During the environmental monitoring and control visit, the technical team observed the E-W configuration of the disposal site’s drainage and sub-drainage system, which discharges into an unnamed water source, a tributary of the Agua Dulce Creek, which in turn is a microbasin of the La Sorda Creek. It

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<sup>5</sup> Resolution No. 2445 of the National Environmental Permitting Authority (ANLA), p. 8.

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is important to note that an intense, nauseating odor was detected at the discharge site of the drainage and sub-drainage network, apparently associated with the decomposition of sulfur-containing organic matter.<sup>6</sup>

3.4.3. On the north side of the disposal area, the team observed a pool of standing water measuring approximately 20m in diameter. At the time of the visit, they detected odors possibly related to the decomposition of organic matter and observed that the pool of water was advancing toward adjacent properties, affecting their plant cover and geotechnical stability due to saturation. Finally, they observed a proliferation of vectors at the site with the potential to adversely affect the health of the adjacent community.<sup>7</sup>

3.4.4. On the west side of the disposal site, the team observed the disposal of material not authorized in the environmental license for ZODME Z12T5, namely concrete, plastic, and wood waste. The presence of the wood in particular could aggravate the problem of nauseating odors at the site. The compacting, density, and hence the stability of the disposal site could also be compromised. As for the drainage water, the odor may be due to the contact of subsurface water at the disposal site with the excavation material being disposed of in the ZODME. This water may contain sulfur compounds originating from the Lizama formation; the water washes away the excavation material and transports these compounds, which in turn may produce acid drainage in the presence of sulfur. This can result in the formation of hydrogen sulfide when organic matter

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<sup>6</sup> Ibid.

<sup>7</sup> Ibid., p. 10

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decomposes, having unforeseen contaminating effects on the lithosphere and hydrosphere.

- 3.4.5. Based on its observations during the monitoring visit, the technical team found that CONCESIONARIA RUTA DEL CACAO S.A.S., in its operation and management of ZODME Z12T5, is not complying with the provisions of PMF-02, Management and disposal of surplus excavation and demolition materials, and PMF-11, Surface water management, approved in Article 11 of Resolution 763 of 30 June 2017. It found that this failure to comply has resulted in sulfur-containing drainages that discharge into water sources; improper management of the drainage system leading to the accumulation of drainage water and rainwater runoff with decaying organic matter; damage to adjacent properties from the effects of soil saturation; and the uncontrolled sedimentation of nearby water sources. The analysis of the conduct of CONCESIONARIA RUTA DEL CACAO S.A.S. considers the fact that air, soil, and water resources have been adversely affected in this case, and that there have been impacts on the land surrounding ZODME Z12T5.<sup>8</sup>
- 3.4.6. Violation of the Environmental Impact Study (EIA) in the Environmental Management Sheets identified as PMF-02 [Management and disposal of surplus excavation and demolition materials] and PMF-11 [Surface water management]. In addition, according to the technical note, the non-implementation of PMF-02 and PMF-11 has adversely affected air, soil, and water resources, thus generating additional impacts on the properties adjacent to ZODME Z12T5.<sup>9</sup>
- 3.4.7. CONCESIONARIA RUTA DEL CACAO S.A.S. has full knowledge of the Environmental Management Plan sheets, referred to in Article 11 of Resolution 00763 of 30 June 2017, specifically those

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<sup>8</sup> Ibid. p. 11

<sup>9</sup> Ibid., pp. 11-12; 14

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related to sheets PMF-02 and PMF-11. It is not complying with the obligations involved, including the following, as indicated in technical note 07137 of 6 December 2019: containment of disposed materials, management of surface runoff, maintenance and cleaning of hydraulic works, cleaning of ditches, turnouts, intermediate ditches, and perimeter channels, among others.<sup>10</sup>

3.4.8. Considerations of the Complaint Response Visit. Based on the official letter dated 28 October 2019 and filed under No. 2019167861-1-000, the Ruta del Cacao Citizens' Watch Group and the Santander Regional Ombudsman's Office requested the support of the National Environmental Permitting Authority for the technical-environmental visit scheduled for 29 October 2019 to the village of El Líbano, in the municipality of Lebrija, in order to perform a field assessment of the potential environmental impacts on water resources resulting from the construction of the Bucaramanga-Barrancabermeja-Yondó divided highway authorized by the environmental license granted in Resolution No. 0763 of 30 June 2017.<sup>11</sup>

3.4.9. San Vicente Creek. The technical visit began at the entrance of the road leading to the municipality of San Vicente de Chucurí located at coordinates (MAGNA SIRGAS, origin Bogotá) E: 1085681.290m N: 1282494.526m, where the community expressed concern about possible impacts on the San Vicente Creek due to the hauling of construction material and resulting changes to its physicochemical and hydrobiological conditions. In addition, the water flowing through the creek had an orange hue and traces of what may have been a concrete mixture. See photographs 5 and 6 in technical note 6871 of 27 November 2019. Similarly, at the hydraulic works' discharge site, grease and

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<sup>10</sup> Ibid., p. 15

<sup>11</sup> ANLA Resolution No. 02404 of 9 December 2019, p. 8

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fuel slicks were observed in the San Vicente Creek, with possible implications for its physicochemical quality and apparent repercussions on aquatic fauna. For this reason, it is necessary to take weekly samples from the creek for physicochemical, bacteriological, and hydrobiological testing until the construction stage is completed or the Concessionaire can technically demonstrate complete mitigation of the impacts on the aquatic ecosystem.<sup>12</sup>

3.4.10. La Loma (upstream from Carbonera Creek). At this location, the leaders of the village of El Líbano were present, who, together with the citizen monitor, cited potential effects on Carbonera Creek due to the configuration of the divided highway that would connect with the Lisboa sector and the vehicular bridge on the hillside located at coordinates (MAGNA SIRGAS, origin Bogotá) E: 1085730.310m N: 1284203.630m, which showed the precipitation and accumulation of material from the hillside excavations for the construction of the road corridor with direct implications on the flow and course of the creek.<sup>13</sup>

3.4.11. ANLA imposed several environmental measures on the Concessionaire, as follows:

**ARTICLE ONE.** The following additional environmental measures are imposed upon CONCESIONARIA VIAL RUTA DEL CACAO S.A.S., based on the grounds set forth in the legal reasoning section of this administrative decision:

1. Within one month of this administrative decision becoming final, submit a report on ZODME Z14T5 that includes a topographic survey indicating the final configuration and area used, the volume of material disposed of, and a final analysis of

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<sup>12</sup> Ibid., p. 9

<sup>13</sup> Ibid., p. 10

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the stability of the ZODME under static and pseudo-static conditions that demonstrates its ultimate stability.

**2.** Within eight days of this administrative decision becoming final, install at least six topographical control points in ZODME Z13T5, involving both the landslide area and the different zones of the ZODME, in order to assess the stability of the different slopes and terraces of the disposal site, ascertain their condition, and be able to start the process of closing and re-greening the area. Present a report on the results in the next Environmental Compliance Report (ECR).

**3.** Within eight days of this administrative decision becoming final, open a pedestrian walkway to ensure safe entry and exit for children, teachers, and parents attending the **La Gloria—Zarzal Educational Center, known by the community as the Patio Bonito School, home of the La Fortuna Agricultural School (located at PR20+800, village of Zarzal, La Gloria, Patio Bonito sector, functional unit 2-3). Provide documentary records of implementation in the next ECR.**

**4.** Immediately implement management measures at the “stop and go” signal located at PR1+00 (UF 3-4). The TMP should include a pedestrian walkway for the community and the placement of sign holders at the critical point of the school’s two sites in order to prevent accidents in that area. Provide documentary records of implementation in the next ECR.

**5. Immediately reconstruct the ditches located on the sides of the waterways where works such as bridges and box culverts are being built in the different functional units of the road project. Rebuild clogged and/or damaged**

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**sediment control structures and present a maintenance plan for all the ditches used in the project. Provide documentary records of implementation in the next ECR.**

6. Within eight days of this administrative decision becoming final, build the perimeter ditch of ZODME Z12T5, which connects to the desander, and build a protective dyke or rockfill dam on the north side of the ZODME. Provide documentary records of implementation in the next ECR.

7. Implement a weekly monitoring and maintenance plan for the various minor hydraulic structures (sewers and box culverts) in the different road sections where construction work will take place, for which consolidated monthly reports must be presented in the next ECRs.

8. Carry out weekly physicochemical, bacteriological, and hydrobiological monitoring of the San Vicente and Carbonera water sources that are part of the microbasin of the La Sorda Creek, specifically at the points with the following coordinates (MAGNA SIRGAS, origin Bogotá): (1.085.532E, 1.282.363N), (1.085.619 E, 1.282.599 N), (1.085.759 E, 1.284.213 N), (1.085.783 E, 1.284.213 N), and (1.085.839 E, 1.284.249 N); **monitoring should continue until the construction phase is completed or when it is technically demonstrated that the impacts of the civil works on the aquatic ecosystems have been fully mitigated.** The respective results must be presented in subsequent ECRs.

9. Perform weekly monitoring and present weekly technical reports **on physicochemical conditions with an emphasis on**

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sulfides and sulfates, heavy metals, and hydrobiology of the unnamed tributary of the La Sorda Creek microbasin into which the ZODME drainage and sub-drainage system discharges, located at coordinates (MAGNA SIRGAS, origin Bogotá) E: 1.086.155 N: 1.286.489. Sampling should be carried out 100m upstream and 100m downstream of the drainage discharge point in order to determine possible additional impacts on the aquatic ecosystem adjacent to the disposal area authorized in the environmental license.

10. Present a technical report in the next ECR focusing on hydraulic, geotechnical, and plant cover aspects, and analyzing potential impacts on properties near the disposal site due to the disposal of granular material. The report should also address the corrective measures taken to ensure that those properties are in the same or better condition than they were before ZODME Z12T5 opened.

**11. With respect to the possibility that radioactive traces may be generated as a result of the disposal in ZODME Z12T5 of excess granular material from the excavations in the Umir and La Paz formations, this Authority requires the Concessionaire to immediately take the following actions, submit a report on those actions within two months of this administrative decision becoming final, and document its compliance in the next ECR: a. Carry out a detailed analysis of the chemical and mineralogical composition of the different types of sedimentary rocks present in the Umir and**

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La Paz formations that have been excavated in the La Sorda and La Paz tunnels to date, by obtaining representative samples at each stage of the excavations. b. Perform a detailed analysis of the chemical and mineralogical composition of the material in ZODME Z12T5 by taking representative samples at 3 depths within the disposal mass. c. Based on the testing of the chemical and mineralogical composition of the rock units obtained from the La Sorda and La Paz tunnels, and the analysis of the possible chemical reactions that may occur under the climatic and hydrological conditions present in the ZODME Z12T5 area, review the potential generation of radioactive traces or other heavy metals cited in the complaint filed by the Ruta Del Cacao Citizens' Watch Group. d. Monitor naturally occurring radioactive compounds (potassium, thorium, and uranium) in two different samples of excavated material from the La Sorda and La Paz tunnels. e. Monitor ZODME Z12T5 for offensive odors following the protocol established in Resolution 2087 of 2014, and if the parameters established in Resolution 1541 of 2013 are not met, implement the appropriate measures.

12. With respect to the La Sorda tunnel and the possible effects on water sources, the adjustment to the hydrogeological model submitted by the Concessionaire for a 50% advance must be presented no later than one month after this administrative decision becomes final. (File 2019164126-1-000 of October 22,

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2019):

**a.** Extend the domain of the model northward to 480m from the axis of the tunnel, including the points of hydrogeological interest located in the village of El Líbano, which is socioeconomically significant. This includes updating the inventory of water sources, with particular attention to the case of the Montesano farm.

**b.** Perform a complementary hydrogeochemical analysis, hydroclimatic review, and assessment of the geological, lithological, and structural conditions at each point (taking into account the regional dip angles of the geological units) and verify and validate the potential effects of underground works on the points. **c. If there is evidence of hydrogeological connectivity between the underground works and water sources in the village of El Líbano, mitigating, corrective, or compensatory environmental management measures must be implemented to ensure the supply of water to the potentially affected population.**

**13.** Present information on the Environmental Economic Assessment in the next environmental compliance report, regarding the following impacts: habitat modification, changes in the composition and structure of wildlife, and conflicts with the community.

**14.** Present, in the next environmental compliance report, the technical references or inputs used to estimate both the number of days lost due to conflicts with the community, as well as the percentage of the budget allocated for managing those conflicts. In addition, provide an Excel sheet with the calculations used to

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estimate the monetary value of the impact.<sup>14</sup>

(Note: Bold type and underlining added for emphasis).

- 3.4.12. Concesionaria Ruta del Cacao SAS has asked the NATIONAL ENVIRONMENTAL PERMITTING AUTHORITY on three occasions to amend Environmental License No. 0763 of June 2017. ANLA has twice denied the request for amendment, finding that: ***Likewise, we cannot ignore the fact that the new alignment will have greater impacts on the various components of the three environments (abiotic, biotic, and socioeconomic) and will affect previously unaffected areas, versus those impacts identified in the originally licensed project in connection with a divided highway. This Authority cannot disregard the importance of water resources, especially when they become a source or supply for a rural community, where water is needed not only to sustain life but also for all other economic activities. This is even more important because the communities in the project area lack access to aqueducts. This Authority has preliminarily identified 24 water sources or springs that would be affected by the proposed alignment of UF [functional units] 8 and 9, since they are located less than 100m from the project; this condition restricts and limits the current flow, accessibility, and quality of these bodies of water. Therefore, the communities that use this resource will most likely be affected, and not only will their living conditions deteriorate but the resource itself will be endangered.***<sup>15</sup>

#### 4. HARM CAUSED

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<sup>14</sup> Ibid., pp. 19-21

<sup>15</sup> ANLA Resolution 01034 of 9 June 2018

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- 4.1. Many homes in the project's area of influence are being structurally damaged.
  - 4.2. The biotic and abiotic environment is being adversely affected.
  - 4.3. Flooding in Puerto Balso
  - 4.4. Pollution of several creeks in the village of El Líbano
  - 4.5. Environmental impact of having built a ZODME on a wetland
  - 4.6. Environmental pollution by hydrogen sulfide
  - 4.7. Pollution of properties surrounding ZODME "Z12"
  - 4.8. Property damage and refusal to compensate the injured party
  - 4.9. Death of flora and fauna due to pollution of ZODME "Z12"
  - 4.10. Death of more than 100 timber trees over 20 years old
  - 4.11. Possible contamination with radioactive elements, which poses a risk not only because of the presence of these elements, but especially because of the length of time that humans and animals will be living in the vicinity of the ZODME containing this waste (uranium 238 and thorium among others).
  - 4.12. Lower water levels in bodies of water and water sources in the villages of El Líbano, Canoas, Cristal, and Centenario.
  - 4.13. Village aqueducts that may lose their water source
  - 4.14. Various water sources have dried up (Montesano case. Water source literally dry).
  - 4.15. If ANLA authorizes the Second Route proposed by the Concessionaire to save its investment in the purchase of land without an environmental license, underground water sources will be destroyed in the village of Lisboa in the municipality of Lebrija.
5. We have long been aware of the way in which INTER-AMERICAN DEVELOPMENT BANK complies with legal regulations in the different countries where it provides its services, and we are aware of the IDB's environmental and social governance policies; knowing that Concesionaria Ruta del Cacao SAS is an IDB client in this BUCARAMANGA - BARRANCABERMEJA - YONDO 4G TOLL ROAD project, and seeing in practice the environmental irregularities that are being committed by the

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Concessionaire in this project, in clear conflict with IDB Operational Policies, it is evident that Ruta del Cacao SAS is not complying with those policies.

6. Our initial contact with the IDB, when we raised our respective complaints, was on 4 September 2019 in Bogotá, Colombia, at a meeting organized by the NGO *Ambiente y Sociedad*. On 8 October, IDB representatives in Colombia came to the city of Bucaramanga and met with the directors of our Citizens' Watch Group, who elaborated further on the complaint. Both meetings were held with IDB official Fiorella Pino and other senior IDB staff.
7. We would like the INTER-AMERICAN DEVELOPMENT BANK to provide us with guidance on the next step to take to address the adverse environmental and economic impacts that Concesionaria Ruta del Cacao SAS—an IDB client in the BUCARAMANGA - BARRANCABERMEJA - YONDO 4G TOLL ROAD project—has been causing, is causing, and will continue to cause in the implementation of the project if aggressive measures are not taken.
8. As the Ruta del Cacao Citizens' Watch Group, we do not require special treatment to keep our identity confidential. Concesionaria Ruta del Cacao SAS is aware of our actions and our complaints to the environmental authorities and the Colombian oversight agencies. Furthermore, it is our general rule to send copies of all our correspondence to both the Concessionaire and to the Controller's office of the National Infrastructure Agency, which is the entity serving as the project contractor.
9. We respectfully request that MICI reply to our request.

### **GABRIEL RANGEL MOGOLLON**

*Veeduría Ciudadana a la Ruta del Cacao*

[Ruta del Cacao Citizens' Watch Group]

Executive Director

**BUCARAMANGA (SANTANDER)**

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### **ANNEX:** ANLA Resolutions

Resolution, Office of the Municipal Ombudsman of Lebrija, appointment as Executive Director of the Citizens' Watch Group

- cc. Martha Lucia Ramírez, Vice President of the Republic
- Members of Congress who are aware of the issues with Ruta del Cacao
- IDB – invest
- International Finance Corporation
- National Infrastructure Agency (ANI)
- Office of the Deputy Inspector General for the Environment, Santander
- Office of the Regional Ombudsman of Santander
- Regional Autonomous Corporation of Santander (CAS)
- Corporación de Defensa de la Meseta de Bucaramanga* [Meseta de Bucaramanga Defense Corporation] (CDBM)
- Office of the Municipal Ombudsman of Lebrija
- Engineer CONRAD VELLVÉ RAFECAS, Legal Representative of Concesionaria Ruta del Cacao
- Engineer Gustavo Montes, Consorcio BBY
- File

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