

Seventeenth progress report on Cerrejón's social commitments after the Third-Party Review Panel in 2008

Letter from Roberto Junguito, CEO of Cerrejón
April 30, 2017

It is a pleasure to present to our stakeholders our seventeenth report on the status of the last three projects arising from the recommendations by the Third-Party Panel that reviewed Cerrejón's social performance in 2008. On this occasion, we are happy to report that we have delivered another 18 houses to families in communities neighbouring Puerto Bolívar and reached tangible agreements with the Tabaco community for the construction of the community centre on the La Cruz property. Furthermore, in the resettlements we are getting closer to reaching an agreement with the last family eligible for relocation in Las Casitas, thereby concluding the relocation of the 190 families in the five resettlements currently underway. More details on this progress and on other topics of interest are given below. We hope you will find this information useful.

Media Luna

As a result of joint dialogue and engagement, on January 25 of 2017, we delivered 18 houses to the communities of Pioula and Pioulekat (Media Luna sector) in addition to the pilot house handed over in 2015. The two houses still awaiting construction will be built in the urban zone of Uribia as the communities themselves declared the two families do not belong to their family clan. Cerrejón is working with the Uribia mayor's office to build these two houses, as requested. The town of Uribia will supply the land and Cerrejón will supply the materials.

Resettlements

The most significant progress made since the last report on the five resettlements by Cerrejón are the following:

In December of 2016, together with the community of Tamaquito II we closed the components regarding income generation, production projects, and employability corresponding to the voluntary relocation agreed on with this community in August of 2013. The conclusion defined five lines of work to strengthen the community, promote unity and well-being, and boost its self-development. Cerrejón will support efforts in these areas with over COP one billion.

It is definitely worth noting that the new water treatment plant in the community of Tamaquito II has been installed and tested. We are waiting for the residents to set a date for the official handover as the first date set was cancelled due to an internal issue in the community. In the meanwhile, we continue to deliver 33,000 litres of water a week by truck tanker.

In Roche, all of the 25 families eligible for relocation are living at the new site and receiving the post-resettlement support programs. In Las Casitas, progress has been made in negotiations with the last family eligible for relocation still at the site of origin. We expect to reach an agreement soon. To date, we have reached agreements with 59 of 62 families in the urban and rural areas and 69 of 75 of the rural properties. Nevertheless, the expropriation process is advancing at the same time, and although the San Juan del Cesar judge had set a date of May 5 of 2017 to carry out the early handover of ten properties, including the last family at the site of origin, the Judge postponed the procedure and will define a new



date. We hope this situation can be avoided given the significant progress made to date and the good relations amongst the parties.

All of the 46 Patilla families eligible for relocation moved to the new site in June of 2012. In Chancleta, 38 of the 56 families eligible for relocation have been living at the new site since 2012, nine other families decided to relocate to other villages, and the other nine families accepted the formalized agreement resulting from the prior consultation process concluded on December 2016 and they moved individually. Cerrejón continues to provide post-resettlement support.

Tabaco

We continue engaging with the community of Tabaco and the local authorities of Hatonuevo in the process to achieve the construction of the community center and in the past six months we have made significant progress. Although details of the results achieved have been informed in local media, the community and the Tabaco's Pro Relocation Board have explicitly requested that any public announcement on the topic must be previously agreed between the community, the Board, the local municipality and Cerrejón. We therefore hope to be informing the agreements reached so far which allow us to believe that we are getting closer to fulfilling our commitment to build the community center. We are able to inform that we officially handed over the title deeds for the La Cruz property to the Hatonuevo Mayor's Office, which now allows that administration to go ahead with the civil works designs.

In addition, the Constitutional Court continues to review the *tutela* action presented by the Hatonuevo Ombudsman and the Tabaco Social Pro-Relocation Committee. In it, they request that Cerrejón's license be suspended, that they be once more compensated, and that the negotiating process be restarted with the community, retroactively applying current standards and jurisprudence. This case has already been ruled in favour of Cerrejón twice in two instances, and we are awaiting the court's current ruling.

Status of prior consultations

Several prior consultations in course are at different stages. Below we present the progress made and the challenges we still face on these fronts.

a. La Horqueta 2: In mid-2016, the Administrative Court of La Guajira ordered the Ministry of the Interior to once again review the possible impacts caused by the La Puente Pit Project (which requires the partial diversion of Bruno Creek) on the Wayuu community of La Horqueta 2. The Ministry of the Interior concluded that the project does not impact access to water, enjoyment of the land, mobility, or the cultural practices of these communities. However, the Council of State ordered (in a ruling released publicly and that Cerrejón considered itself notified for conclusive conduct on January 2017) a prior consultation to take place within 30 days with this community (located 4.7 km upstream of the work site). It also requested that the Ministry of the Interior review what other community might also be in the same condition.

To comply with this order, on February 9 of 2017, we began consultation with the community under the leadership of the Ministry of the Interior and the presence of public institutions. However, the community requested that the court extend the consultation period to November of 2017. While awaiting a response to this request, the parties held weekly work sessions up to April first, related to the creek course modification, its impacts and management measures. On April first a previously agreed meeting



was held with the participation of the institutions and it was not possible to reach an agreement on the timeline to complete the consultation in 30 days as ordered by the Council of State. As a result, the Ministry of the Interior declared the prior consultation with the community to be closed without an agreement and inform this decision to the Administrative Court of La Guajira. At all times, Cerrejón called upon the parties to reconsider and keep talks open. The parties are currently awaiting the court's comments on the Ministry's decision as well as on its decision regarding other communities that may be in the same condition that justified initiating the process with La Horqueta and that would therefore also need to be consulted.

b. Roche: In a last instance ruling, the Council of State overturned the decisions of the two prior instances, ordering two consultations to begin with this village in light of its self-recognition as an Afro-Colombian community, formalized in November 2012. The first consultation process is for the 25 resettled families to determine the type of property they would like to have at the new site (collective or individual property), and the second consultation is with the Roche families that sold their properties and improvements to Cerrejón from 1997 to 2003 before the current resettlement began. The goal of the latter process is to agree on additional compensation so they receive the same treatment as the 25 resettled families in the process after the sale of these properties and improvements.

The consultation process started on April 5 under the leadership of the Ministry of the Interior and the presence of the families, Cerrejón representatives, and public bodies. At the sessions, the methodology and a timeline were agreed on to proceed with the two consultations simultaneously.

c. Patilla and Chancleta: In compliance with the ruling of the Constitutional Court in March of 2016 recognizing them as Afro-Colombian communities, a prior consultation was carried out with these villages, successfully concluding in December of 2016 with formal agreements. The goal of the consultation was to set the management measures for resettlement of the families still residing in the Patilla and Chancleta area that have self-identified as black and agreed on the differential measures for their members regarding their specific impacts. Implementation of the agreements is underway, and 60 out of 62 families have already accepted the agreements, handed over their properties, and vacated the area. The fate of the two families that have not signed the agreement will depend on the decision of the Barrancas judge or of a third party in accordance with regulations.

d. Media Luna: In a ruling issued on December 13 of 2016 and notified on February 2017, the Constitutional Court overturned the prior two decisions and ordered a consultation with three Media Luna communities on the additional engineering works planned (but not executed) for the port expansion. Furthermore, the decision ordered the National Environmental Permitting Agency (ANLA) to review our Comprehensive Environmental Management Plan (CEMP) to determine whether environmental, social, and cultural impacts are suitably handled and to undertake prior consultations to define additional management measures with potentially impacted communities. We filed a nullity action with the Constitutional Court and a request for clarification on the scope of the prior consultation order with the Media Luna communities.

While awaiting the court's decision, we will start the preliminary consultation session with the three Media Luna communities concerning the partial expansion of the desalination plant (the only construction work Cerrejón decided to go ahead with) on May 18. As concerns the second order, the

ANLA has already begun to review the CEMP, and we will be keeping an eye on decisions by the authorities.

We hope this information is useful, and we are at your disposal regarding any concerns that may arise on these or other topics as this will help us improve our practices and strengthen our engagement with our stakeholders.

Sincerely,



Roberto Junguito
CEO
Cerrejón

