

Report No. 111207-CO

Inspection Panel

Report and Recommendation on a Request for Inspection

REPUBLIC OF COLOMBIA Río Bogotá Environmental Recuperation and Flood Control Project (P111479)

December 22, 2016

The Inspection Panel
Report and Recommendation
on
Request for Inspection

**Republic of Colombia: Río Bogotá Environmental Recuperation and
Flood Control Project (P111479)**

Summary

1. This Report and Recommendation responds to two Requests for Inspection of the Río Bogotá Environmental Recuperation and Flood Control Project ("the Project"). The complaint includes allegations of environmental, public health and social harm as a result of the expansion of the Salitre Wastewater Treatment Plant (WWTP), as well as shortcomings in the consultation process. After conducting its due diligence, which included an eligibility visit, the Panel notes the innovative nature of the Project and its important contributions to enhancing the environmental quality of the Bogotá River basin. The Panel also notes that no harm has occurred, and that Management has specifically committed to addressing the potential harm raised in the complaint. The Panel therefore does not recommend carrying out an investigation into the alleged issues of harm and related potential non-compliance with Bank policies.

A. Introduction

2. On June 23, 2016, the Panel received a Request for Inspection (attached as Annex 1) of the Project signed by 12 people from "Mesa Ciudadana Cortijo Tibaguya" (Cortijo Tibaguya Citizens Roundtable, MCCT), a neighborhood association that represents the residents of the UPZ 72¹ community in Bogotá. Subsequently the Panel received an additional 1,215 signatures in support of the request. On June 29, 2016, the Panel received another Request for Inspection of the same Project from "Fundación Colectivo Somos Uno" representing members from the El Cortijo neighborhood. Both groups asked the Panel to keep their identities confidential and are referred as "the Requesters." At the time, and in accordance with its governing framework, the Panel did not register the request in order to provide Management with an opportunity to address these concerns.² The Panel issued a Notice of Receipt on June 30, 2016.

3. On September 30, 2016, the Panel received an additional Request for Inspection from Fundación Colectivo Somos Uno expressing similar concerns and stating that they were dissatisfied with Bank Management's actions. On October 5, 2016, the Panel received another Request for Inspection from the MCCT, signed by six community members, also expressing

¹ The UPZ 72 is a zonal planning unit in the Engativá locality and it encompasses the neighborhoods of El Cortijo, las Carolinas, Quintas de Santa Barbara, Ciudadela Colsubsidio, Bolivia, Bochica and Rondas de San Patricio.

² One admissibility criteria for a Request for Inspection is that the issues raised in the Request need to be brought to the attention of the Bank (IDA Board Resolution No. 93-6; 1999 Clarification of the Panel Resolution; Inspection Panel Operating Procedures, April 2014).

dissatisfaction with the Bank's response and stating that they would like to “*activate the Inspection Panel mechanism.*”³

4. The Requesters claim environmental, health and social harm as a result of the expansion of the Salitre WWTP in Bogotá. They also question the analysis of alternatives of the Project, and claim that the potentially affected communities were not included in the consultation process. Since the concerns raised refer to the same Project and similar issues, the Panel registered them jointly on October 13, 2016. (Hereinafter both Requests are referred to as “the Request”.)

5. In accordance with the Resolution establishing the Inspection Panel, the purpose of this document is to make a recommendation to the Board of Executive Directors as to whether the Panel should investigate the matters alleged in this Request.⁴ The Panel’s recommendation is based on its consideration of the technical eligibility of the Request and its assessment of other factors as reflected in the Panel’s Resolution and its Operating Procedures.⁵

6. This document provides a description of the Project (Section B), a summary of the Request (Section C), a summary of the Management Response (Section D), the Panel’s determination of the technical eligibility of the Request, its observations and review (Section E), and its recommendation (Section F).

B. Description of the Project

7. The Río Bogotá Environmental Recuperation and Flood Control Project (P111479) aims to address the health and environmental impacts resulting from the contamination of the Río Bogotá in Colombia. The Specific Investment Loan was approved by the IBRD Board of Executive Directors (“the Board”) for an amount of US\$250 million on December 14, 2010. The Project also includes US\$237 million in financing from the Borrower (Corporación Autónoma de Cundinamarca, CAR), the regional environmental authority for the Bogotá River Basin. On June 30, 2016, the Project was extended for 18 months and will close on December 30, 2017.

8. The Project's development objective is to *assist the Borrower to transform the Río Bogotá into an environmental asset for the Bogotá Distrito Capital metropolitan region by improving water quality, reducing flood risks and creating multi-functional areas along the said river.*⁶ The Project has four components: (i) Upgrading and Expansion of the Salitre WWTP; (ii) Flood Control and Río Bogotá Environmental Restoration Works; (iii) Environmental and Water Studies; and (iv) Project Management and Administration. The principal component relevant to the Request is Component 1. This component supports the upgrade and expansion of the Salitre WWTP from a 4m³/s primary plant to an 8m³/s secondary plant to treat, convey and discharge the wastewater

³ Request for Inspection submitted October 5, 2016, p. 1

⁴ International Bank for Reconstruction and Development (Resolution No. IBRD 93-10), The World Bank Inspection Panel, September 22, 1993 (“the Resolution”), para 19. Available at: <http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/ResolutionMarch2005.pdf>.

⁵ Inspection Panel Operating Procedures, April 2014. Available at: <http://ewebapps.worldbank.org/apps/ip/PanelMandateDocuments/2014%20Updated%20Operating%20Procedures.pdf>.

⁶ Project Appraisal Document, p.5

from the Salitre, Torca and Jaboque micro-basins to the Río Bogotá and potentially the Distrito de Riego La Ramada.⁷

9. The Project was assigned an Environmental Category A and triggered the following safeguard policies: Environmental Assessment (OP/BP 4.01); Natural Habitats (OP/BP 4.04); Pest Management (OP 4.09); Physical Cultural Resources (OP/BP 4.11); and Involuntary Resettlement (OP/BP 4.12). According to the Project Appraisal Document (PAD), an Environmental Assessment (EA) and a Social Management Plan for Land Acquisition and Resettlement were prepared for the Project.

10. On May 20, 2016, CAR signed the Salitre WWTP “turnkey” contract with the Expansion PTAR Salitre Consortium. The Project was restructured on June 28, 2016, to extend the closing date from June 30, 2016, to December 30, 2017. According to the Restructuring Paper, and because the expansion of the Salitre WWTP is a five-year contract that includes four years of construction and one year of operation, a second extension would be needed. This would ensure the continuity of the Bank’s implementation support during the construction and transfer phases, while also allowing the Bank to closely monitor environmental and social safeguards and fiduciary activities.⁸ Construction is expected to commence in the second quarter of 2017.

C. Summary of the Request

11. The Requesters claim that the residents of the UPZ 72 community are likely to suffer environmental, health and social harm as a result of the expansion of the Salitre WWTP, and that approximately 20,000 families (a total of 60,000 to 80,000 people) will be directly affected by the Project. They allege that the Project violated the requirements of OP/BP 4.01 on Environmental Assessment as it relates to analysis of alternatives, the depth of the environmental assessment, and consultation and disclosure. They also contend that the Project did not follow national legislation related to the environment, participation and access to information.

12. The Requesters allege that as a result of the expansion of the Salitre WWTP the 35 hectares of forest and wetland known as the Cortijo Tibaguaya will completely disappear. They explain that endemic and migratory birds and small mammals, which inhabit the area, will be adversely affected. They also claim that the Project will negatively impact the floodplain of Río Bogotá, the Tibabuyes or Juan Amarillo⁹ and Jaboque wetlands, increasing the risk of flooding and affecting the ecosystems of the area. They explain that the connections between the forests and the water sources will be destroyed, affecting the oxygen needed for the area and nearby communities, and claim that these impacts were not properly analyzed in the Project's EA. They also contend that the compensation proposed by the Project will not properly offset the environmental impacts. They criticize the Metropolitan Park to be financed by the Project, which is intended to create multifunctional zones along the Río Bogotá, and claim that there is a need to improve and properly maintain existing parks in their communities, instead of creating new ones. They also raise

⁷ Ibid, p.6

⁸ Restructuring Paper, p. 5

⁹ The Juan Amarillo River and wetland are also known as the Tibabuyes River and wetland. Tibabuyes is the name of the ancestral lake that used to exist in the area. The Neuque is a meander of the Juan Amarillo River.

concerns about inadequate wildlife relocation plans for the transfer of species from the Cortijo Tibaguya Wetland.

13. The Requesters also question the Project's analysis of alternatives that they claim was prepared more than 15 years ago and only plans to solve the water contamination problem for the next 10 years. They claim the existence of flaws in the Project design, including the fact that: (i) the WWTP does not treat the water of the Juan Amarillo River and its tributaries, the tributaries of the Bogotá River, or the water of the Tibabuyes wetland; (ii) the size of the WWTP will not be sufficient to treat all waters, including the water from the rainy season; and (iii) the technical design was developed eight to 10 years ago and does not take into account the significant population growth in Bogotá. The Requesters also contend that the technology used by the CAR for its treatment plants is obsolete.

14. The Requesters argue that the plant operations will adversely affect the public health of the nearby communities; some of houses will be located less than 100 meters from the expanded plant. They fear that the new plant will release chemicals, generate odors and cause vector-borne diseases. In addition, they claim that the expansion of the plant will lead to a depreciation of their property values and increase the price of water and sewage services.

15. Finally, the Requesters complain about shortcomings in the consultation process. They contend that only environmental non-governmental organizations (NGOs) were consulted, the meetings were held far from the community and the community was not adequately informed of the consultation meetings. According to the Requesters, the environmental compensation agreement with the “Salitre Roundtable” created by the CAR did not include affected communities. They also complain about lack of information disclosure and transparency and request access to specific documents, including the updated environmental, technical and sanitary feasibility studies and public health studies.

D. Summary of the Management Response

16. Management in its Response (attached as Annex 2) reiterates the importance of this Project to the city of Bogotá and the significant adverse environmental and human health risks resulting from the current condition of the Bogotá River, one of the most polluted in the world. It explains that the Government, including CAR, is obligated to clean up the Bogotá River and expand the Salitre WWTP as a result of a judicial decision by the Supreme Court on Administrative Litigation in 2014. Management states that although it understands the concerns of the Requesters regarding potential Project impacts, it is *“confident that any potential environmental, health or safety impacts from the Project have been thoroughly studied and will be effectively mitigated through the Project’s design, Environmental Management Plan and Salitre Social Management Plan.”*¹⁰ The Response further states *“the Requesters have not demonstrated that their rights or interests have been, or will be, directly and adversely affected by the Bank’s failure to apply its policies and procedures under Salitre II.”*¹¹ In addition, Management points out that the Request reflects significant misunderstandings about the Project’s technology and impacts.¹²

¹⁰ Management Response, p. v.

¹¹ Ibid, p. vi.

¹² Ibid, p. v.

17. Management underlines that the design of the plant is technically sound and based on studies reviewed by both the Bank and international experts. The development of the final detailed design and construction plans are underway, following a feasibility study in 2011 considering various design alternatives, and a preliminary engineering design in 2014. The design capacity for the plant is based on historical data for a 30-year planning period equivalent to the saturation of the sewer service areas,¹³ which corresponds to 3.5 million residents in 2040. Management further notes that the Salitre plant will treat 30 percent of wastewater in Bogotá, while the other 70 percent will be treated in the Canoas WWTP planned for future construction downstream. Regarding the Requester's claims that the technology is obsolete and inefficient, Management explains that the conventional activated sludge process¹⁴ *"was selected to meet the effluent pollutant discharge limits in a reliable, cost-effective manner, while providing flexibility for future treatment expansion."*¹⁵ Management states that the technology was selected after analyzing in detail 17 options and that this method has been applied around the world due to its reliable performance.

18. Management explains that potential odor and noise impacts caused by the Project will be addressed through mitigation measures contained in the Environmental Management Plan (EMP), and that existing odor issues at the current plant will be addressed by the contractor. Chemicals will be managed through the application of international and national safety standards, including a contingency plan for emergencies, as indicated in the EMP. In response to the Requesters' concern of increased risk of flooding, Management explains that the construction site is not a part of the floodplain of the Bogotá River. Additionally, Component 2 of the Project supports works that have improved flood protection in the area.

19. Management points out that the Request is in large part about Salitre II's proximity to the Requesters' residences, and visual impacts will be addressed through reforestation and landscaping. Regarding concerns that the Project will negatively affect property values, Management states that *"data on the value of real estate properties located near the Salitre WWTP show a steady increase since 2010"*¹⁶ and that this pattern has continued over the last two years even though the proposed expansion of the Salitre WWTP has become well known.¹⁷ Management therefore believes the Requesters concerns regarding property values are *"unfounded."*¹⁸

20. In its response, Management states that the "Tibaguya forest" and "Cortijo-Tibaguya wetland," which are together referred to by the Requesters as the "Tibaguya reserve," are *"neither a recognized reserve, nor a formally designated or protected environmental area."*¹⁹ They explain that the area consists of *"grassland with some bushes and trees."* They state that the Project EA

¹³ Ibid, p. 19.

¹⁴ Activated sludge is a treatment process that uses microorganisms cultivated in the treatment process to break down organic matter into carbon dioxide, water, and other inorganic compounds. It contains a reactor where microorganisms are aerated with the waste, a liquid-solid separation system, and a sludge recycling system (Available at: <http://water.worldbank.org/shw-resource-guide/infrastructure/menu-technical-options/activated-sludge>).

¹⁵ Management Response, p. 19.

¹⁶ Ibid, p. 9.

¹⁷ Ibid, p. 9.

¹⁸ Ibid, p. 9.

¹⁹ Ibid, p. 12

considered the potential impacts at the proposed site and “*did not identify the presence of any significant or sensitive natural habitats or any critical natural habitats in the directly affected area of the Project.*”²⁰ Management explains that the Project design and EMP include measures to maintain and enhance the environmental buffer and a plan for identification and management of fauna during construction. The contractor is also required to conduct a forest inventory before construction.

21. Management states that there is no requirement under Bank policy to create an “environmental offset” for loss of vegetation during the Project, but that “*CAR recognizes that Salitre II site has some environmental and scenic value to the adjacent communities.*”²¹ Therefore, CAR is working to restore environmental areas by creating a Metropolitan Park adjacent to the plant and a new 10-hectare wetland called “Nuevo Cortijo” next to the existing Tibabuyes Wetland, in addition to restoring the Juan Amarillo meander. These works were developed as part of agreements by the Salitre Roundtable. Management notes that the approved park design was modified at the request of this Roundtable to increase the green area and ecological space.²²

22. Management also states that the Project has conducted extensive stakeholder consultation and information disclosure during the preparation of the Project EA and that “*consultations have been carried out in line with applicable laws and regulations and Bank safeguards.*”²³ The Response also states that both Management and CAR “*have made significant efforts to address local community concerns,*”²⁴ including establishing a citizen’s oversight committee, maintaining a website and social media profiles, and engaging with local stakeholders through the Salitre Roundtable and the UPZ 72 Roundtable. According to Management, at least 41 consultation meetings have taken place between 2008 and 2016, with consultations beginning in 1996 at the time of the issuance of the environmental license. Management further explains that some of the outreach efforts by CAR have been rejected by groups within the community.

23. Despite these outreach activities, “*Management acknowledges that communication and information around the Project may not have been effective enough to achieve the desired results.*”²⁵ In response to the Request, Management states that the Bank and the Borrower have agreed on an action plan, which has “*strong commitment from CAR’s senior management*”²⁶ to address the concerns brought forward by the Requesters. These actions include: (i) hiring two field-based social experts and a communication expert for the Project Implementation Unit team; (ii) improving the Project website to include more technical and environmental information; (iii) fully implementing the Salitre Social Management Plan (SSMP); (iv) continuing to work with the citizen’s oversight committee to monitor Project compliance, and (v) continuing the dialogue with MCCT through the UPZ 72 Roundtable, facilitated by an external party. Management has also increased the frequency of supervision missions to track the implementation of these actions. The complete action plan can be found in the Management Response included as Annex 2.

²⁰ Ibid, p. 12

²¹ Ibid, p. 14

²² Ibid, p. 16

²³ Ibid, p. 11

²⁴ Ibid, p. 8

²⁵ Ibid, p. 20

²⁶ Ibid, p. 21

E. Panel Review of the Request and of the Management Response

24. The Panel conducted its eligibility visit to Bogotá, Colombia on December 1 – 4, 2016. The Panel team was comprised of Panel Chairman Gonzalo Castro de la Mata, Operations Officer Tamara Milsztajn and Consultant Jordan Burns. The team met with officials of the Ministry of Finance, the National Department of Planning (DNP), the District Environmental Agency, CAR, and the Bogotá Water Supply and Sewerage Company (Empresa de Acueducto y Alcantarillado de Bogotá, EAAB). The Panel also met with the Salitre Roundtable, as well as the World Bank Country Program Leader, and staff from the Project team. The team visited the UPZ 72 community and held meetings with the MCCT and Fundación Colectivo Somos Uno, in addition to approximately 60 community members. The Panel toured the wetlands, the forest areas and the compensation areas in separate visits, both with the Requesters and the CAR. The Panel expresses its appreciation to all of these stakeholders for sharing their views and exchanging information and insights, and extends special thanks to the World Bank Country Office for assisting with logistical arrangements.

25. The Panel's review is based on information presented in the Request, the Management Response, other documentary evidence, and information gathered during the site visit. The following review covers the Panel's determination of the technical eligibility of the Request according to the criteria set forth in the 1999 Clarification (subsection E.1), observations on other factors (subsection E.2), the Panel's review (subsection E.3) supporting the Panel's recommendation and the Management's remedial actions (subsection E.4).²⁷

E.1. Determination of Technical Eligibility

26. The Panel is satisfied that the Request meets all six technical eligibility criteria in paragraph 9 of the 1999 Clarifications. The Panel notes that its confirmation of technical eligibility, which is a set of verifiable facts focusing to a large extent on the content of the Request as articulated by the Requesters, does not involve the Panel's assessment of the substance of the claims made in the Request.

27. Criterion (a): *“The affected party consists of any two or more persons with common interests or concerns and who are in the borrower’s territory.”* The Panel has verified that the Requesters include community members potentially affected by Project activities. The Panel considers the requirement of paragraph 9(a) as met.

28. Criterion (b): *“The request does assert in substance that a serious violation by the Bank of its operational policies and procedures has or is likely to have a material adverse effect on the requester.”* The Requesters assert in substance the lack of compliance with Bank policies resulting in serious harm as described earlier. The Panel is satisfied that this criterion is met.

29. Criterion (c): *“The request does assert that its subject matter has been brought to Management’s attention and that, in the Requester’s view, Management has failed to respond*

²⁷ “1999 Clarification of the Board’s Second Review of the Inspection Panel”, April 1999 (“the 1999 Clarifications”) available at <http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/1999ClarificationoftheBoard.pdf>.

adequately demonstrating that it has followed or is taking steps to follow the Bank's policies and procedures." The Panel received a Request related to the Project in June 2016, but it did not register it because there was no evidence that Management was aware of the concerns raised. In September 2016, the Requesters stated that they were not satisfied with Management's response. Therefore, the Panel is satisfied that this criterion is met.

30. Criterion (d): "*The matter is not related to procurement.*" The Panel is satisfied that the claims do not raise issues of procurement, and hence this criterion is met.

31. Criterion (e): "*The related loan has not been closed or substantially disbursed.*" At the time of receipt of the Request, as noted in the Notice of Registration, the Project was 6 percent disbursed and the Project was open, and thus this criterion is met.

32. Criterion (f): "*The Panel has not previously made a recommendation on the subject matter or, if it has, that the request does assert that there is new evidence or circumstances not known at the time of the prior request.*" The Panel confirms that it has not previously made a recommendation on the subject matter of the Request, and thus this criterion is met.

E.2. Panel Observations Relevant to its Recommendation

33. The Panel acknowledges the importance of the Project to the city of Bogotá given the high levels of pollution of the Bogotá River, a concern that was emphasized during the Panel's visit by Government officials and the Requesters. The Panel notes the innovative nature of the Project by using wetland restoration as a tool to aid in flood control. The Panel also acknowledges the important contributions to enhancing environmental quality of the Bogotá River basin by restoring wetland habitat continuity and progressively integrating this landscape with urban recreational spaces.

34. According to the Borrower, the Project has generated significant public attention and carries with it high expectations. The Requesters informed the Panel that they understand the need to recuperate the Bogotá River, but there is disagreement regarding the methods for accomplishing this goal.

35. In making its recommendation to the Board and in line with its Operating Procedures, the Panel considers the following: whether there is a plausible causal link between the harm alleged in the Request and the project; whether the alleged harm and possible non-compliance by the Bank with its operational policies and procedures may be of a serious character; and whether Management has dealt appropriately with the issues, or has acknowledged non-compliance and presented a statement of remedial actions that address the concerns of the Requesters. Below the Panel records its preliminary observations on the alleged harm and compliance, noting that in doing so, it is not making any definitive assessment of the Bank's compliance with its policies and procedures, and any adverse material effect this may have caused.

Analysis of Alternatives

36. The Panel understands that the implementation of the Salitre WWTP has spanned roughly two decades. According to the EA, the initial environmental license was granted in 1996 and the existing Salitre WWTP became operational in 2000. During this period, the Government has considered one-, two-, and three-plant alternatives for achieving its water quality objectives for the Bogotá River. In 2001, the EAAB contracted a review of alternatives that concluded the best option was to expand the existing Salitre WWTP and construct a larger plant further downstream (Canoas WWTP). Project documents explain that in 2004, the Cundinamarca Court for Administrative Litigation issued a ruling approving the expansion of the Salitre WWTP and requiring the Government to clean up the Bogotá River.²⁸ In the same year, the DNP issued a strategy for managing the environmental health of the river calling for the implementation of the two-plant system.²⁹

37. In November 2008, the Bank received a request from the Government to prepare a loan for the Río Bogotá Project.³⁰ The Panel understands that the Bank conducted an assessment of the proposed two-plant strategy at concept stage and concluded that the Government's approach was acceptable from an economic, environmental and institutional perspective. The EA also provides an overview of the previous alternative analyses conducted by the Government and according to the Management Response the draft was reviewed by an independent panel of experts. In addition, the PAD explains that when the Bank was preparing the Project there was already a legal and regulatory framework in place to support the implementation of the two-plant approach. Management also points out that this represented the preferred option considering the sunk cost associated with the infrastructure already built for the Salitre Plant, the advantageous topographic location of the site, the existing configuration of sewage pipes discharging at the plant site, and the environmental benefits from treated effluent that would help maintain healthy river flows, provide flexibility for future water use, and allow for development of multi-functional parks along the Bogotá River.³¹

38. According to the Management Response, the Bank financed a feasibility study in 2011 that analyzed 17 technologies and was reviewed by an international panel of experts organized by the CAR and EAAB. The study concluded that the activated sludge treatment system was the best option. The Panel understands that in 2014 the Supreme Court of Cundinamarca issued a ruling confirming the two-plant strategy, including the location and technology to be used in the expansion of Salitre WWTP.

Socioeconomic and Public Health Impacts

39. The expanded plant will be located in a densely populated area, neighboring the localities of Suba and Engativá. During its visit, the Panel met with community members who live adjacent to the plant in the locality of Engativá. They reiterated their concerns related to depreciation of their property values and explained that some community members invested their whole life-

²⁸ Project Appraisal Document, p. 3; Management Response p. 48

²⁹ Project Concept Note, p. 3

³⁰ Ibid, p. 3

³¹ Management Response, p. 48

savings in these properties. The Panel was able to observe the proximity of the houses to the expanded plant site, but understands that the visual impacts could be mitigated through landscaping. In addition, CAR told the Panel that the residences in question have steadily appreciated in value since the construction of the existing Salitre Plant, including in the past two years when the expansion of the plant has been well known. An informal review prepared by Management showed that real estate valuation in these neighborhoods in the past years has been comparable to neighboring areas.³² Regarding concerns over a hike in utility prices, the Management Response is silent on this issue; however the PAD explains that there will be a moderate increase in tariffs that remains below those indicated in “willingness to pay” studies.

40. The Requesters also raised concerns about increased odors as a result of the plant expansion. The Panel confirmed that odor is currently a problem in the vicinity of the plant. Management and CAR confirmed during the visit that effluent monitoring and odor mitigation are planned as a part of the Project. Management also stated that the current odors experienced by the community are the result of the current contamination of the river and existing plant’s outdated technology that will be fixed by technology upgrades during the expansion.³³ The Panel understands that as part of the detailed design studies conducted by the contractor, the Project is exploring various technologies for odor management that will reduce the odor in the area. According to CAR officials, the current odor is caused by the influent channel that is open to the air, but they explained that it will be closed in the new design.

41. The Requesters also expressed concerns over the potential for an increase in vector-borne diseases and the release of chemicals, given the proximity of the plant to their houses. Management in its Response explained that the EMP includes a contingency management plan for unexpected construction and operation accidents, in particular related to occupational health and public safety.³⁴ Management also explains that the EMP addresses potential temporary risks associated with increased vectors during construction, but this is not expected to be a significant issue during plant operation. Given that the Requesters indicated they have not been informed that the design of the plant will mitigate negative potential effects on the community’s health and safety, the Panel notes the need for improved information sharing.

Environmental Impacts

42. The Panel visited the Cortijo Tibaguya wetland (1.5 hectares) located at the proposed site for the Salitre Plant expansion with both the CAR and the Requesters. Although Management disputes the character of the Cortijo Tibaguya wetland and states in its Response that this area “*does not consist of any unaffected natural habitats,*” the Panel observed during its visit that the area’s vegetation, habitats and ecological characteristics are consistent with internationally accepted definitions of a wetland. During the Panel’s visit, the Requesters showed unambiguous attachment to the Cortijo Tibaguya wetland, and emphasized the importance of this green space to their quality of life given the dearth of ecological parks in an urban area. The Panel was told that the Requesters hold “wilderness walks” each Sunday with the community to learn about the flora

³² Management Response, p. 18

³³ Ibid, p. 18

³⁴ Ibid, p. 42

and fauna, and some community members explained that they use the area for recreational purposes and enjoy the natural beauty of the wetland on a daily basis.

43. The Requesters contend that the compensation measures envisioned by the Project are not sufficient for the loss of the Cortijo Tibaguya wetland and the surrounding forest. According to the Management Response, CAR recognizes the environmental and scenic value of the wetland to the adjacent communities and is therefore developing alternative recreational outlets and restoration of environmental areas nearby. These include: (i) the creation of a Metropolitan Park, which will encompass 31 hectares, and 80 percent of the area will be assigned to ecological use; (ii) the construction of the Nuevo Cortijo wetland of 10 hectares; and (iii) the restoration of the Juan Amarillo meander³⁵ of 15 hectares. In addition, as part of the larger strategy to recuperate the Bogotá River, the Bank is financing under the Project the restoration of other riparian habitats, meanders and wetlands.³⁶ The Panel understands, based on in-situ discussions with CAR and a review of design maps, that these new wetlands and ecological parks will contribute to restoring the connectivity of existing wetlands in the area, and will constitute in themselves significant new wetland habitats.

44. Regarding the Requesters' concerns over impacts to the Bogotá River floodplain, the Panel notes the historical context of the 2011 widespread flooding in the city that had adverse effects on the localities near the plant. The Panel visited the extensive civil works completed under Component 2 of the Project to widen the channels, construct embankments, and restore wetland habitats to mitigate the effects of flooding events to the community in the future.

45. During its visit, the Panel toured the Jaboque, Juan Amarillo and Nuevo Cortijo wetland recuperation areas.³⁷ Community representatives maintained their concern for the well-being of the fauna living at the Project site and that the construction of the Salitre WWTP will destroy their habitats and the ecological corridor between the Jaboque and Juan Amarillo wetlands. According to the PAD, Component 2 of the Project plans to rehabilitate the riparian corridor and meander between the wetlands for the fauna to use. Moreover, Management commits in its Response to implement the actions outlined in the EMP for identification and management of fauna present in the Project area before any construction takes place.³⁸ During its visit, the Panel observed a forestry inventory that is planned to be completed prior to construction.

Community Consultations and Access to Information

46. During meetings with the community, the Panel heard many complaints about lack of consultation and information disclosure. Community members claim they were not invited to the meetings with CAR and only learned about the plant expansion in late 2014 or 2015 after decisions

³⁵ A meander is one of the curves in a river course that swings from side to side in wide loops as it progresses across flat country. A meander is continually being accentuated by the river itself, the concave bank being worn away by the current while solid material is being deposited on the convex bank. (Environmental Engineering Dictionary, p. 483)

³⁶ Management Response, p. 14

³⁷ As part of Component 2 of the Project, the Bank is financing the restoration of the Jaboque and Juan Amarillo wetlands (Project Appraisal Document, p. 32).

³⁸ Management Response, p. 12

on Project design were already made. The Panel observed there was a lot of confusion among community members about the Project, and a generalized lack of trust in government institutions.

47. Management, in its Response, explains that the Project has conducted extensive stakeholder consultation and information disclosure associated with the preparation of the EA and that stakeholder engagement will continue during Project implementation. Management also stated that CAR has actively engaged with local stakeholders through the Salitre Roundtable and the UPZ 72 Roundtable. The Panel notes that while two consultation meetings took place during the preparation of the EA in 2009, the SSMP was prepared in 2013 and most of the stakeholder engagement efforts started in the end of 2014. The Panel observes that the delays in Project implementation may have led to confusion among UPZ 72 residents about the Project status. The Panel heard from CAR that the rationale for not undertaking additional consultations earlier was because the Project was being challenged at the Supreme Court and the Government was unsure whether the Project was moving ahead.

48. During its visit, the Requesters questioned the legitimacy of the Salitre Roundtable, which in their view only represents “*a few environmental NGOs*” and does not accurately reflect the views of the residents of UPZ 72. Many of the Requesters claimed they were not invited to these meetings, were unaware this roundtable existed, and questioned how its members were selected. The Panel was able to observe the tensions between the Requesters, the members of the Salitre Roundtable and CAR. The Panel understands that CAR created the Salitre Roundtable on December 22, 2014, in response to stakeholders’ requests. According to members of the Salitre Roundtable with whom the Panel spoke, the meetings are open to any community member and they take place once a month. Invitations for the initial meeting were sent by the local governments of Suba and Engativá. The Panel understands that at least one Requester participated in the initial meeting, but later left the roundtable due to disagreements. Other Requesters were not aware of its existence until later in the process.

49. The Requesters told the Panel that they do not agree with the plan for the Metropolitan Park and expressed their preference for the local government to properly maintain local community parks instead of building a new one. The Panel observed in its visit the many neighborhood parks in UPZ 72, with recreational areas for sport, but noted the poor state of maintenance in many areas. CAR confirmed that the current design of the Metropolitan Park was based on feedback from stakeholders who participated in a dedicated Roundtable. The members of the Salitre Roundtable told the Panel they are satisfied that their concerns have been addressed through design adjustments to the planned natural and recreation areas around the plant (the Metropolitan Park).

50. The Panel understands that in accordance with the national legislation, a citizen oversight committee was created to monitor the implementation of the Project and this mechanism provides bi-monthly reports to CAR. This committee also participates in the discussions of the Salitre Roundtable. In addition, EAAB conducts annual surveys on communities’ perceptions on the existing Salitre Plant. Results indicate that the majority of residents of the neighboring communities do not feel adversely affected by the existing Salitre Plant. The Panel is not in a position to comment on the statistical significance resulting from the sample size of the surveys (80 people in the year of 2015).

51. The Panel recognizes the positive steps that have been taken recently regarding the consultation process. CAR created a separate roundtable for the UPZ 72 community that has met seven times since its inception in May 2016. The Panel notes the importance of this dialogue between CAR and the UPZ 72 community to improve information sharing and to find a solution regarding the protection of the Cortijo Tibaguya wetland and forest.

52. The Panel also understands that CAR has strengthened its communications and social expertise in response to the Request for Inspection. CAR is also working on a mass communication strategy to be launched in early 2017 that encompasses sharing information about the Project, as well as raising awareness about the need to clean up the Bogotá River through ads on the national radio and buses. Given the high population density in the areas surrounding the plant,³⁹ the Panel highlights the importance of a mass communication strategy to ensure that information about the Project is widely disseminated among the affected communities.

E.3. Management's Remedial Actions

53. The Panel notes that the Management Response acknowledges weakness in the consultation process and proposes to strengthen the social and communications expertise of the implementing agency and to continue dialogue with the Requesters through the UPZ 72 Roundtable. The Panel also appreciates that in response to the Request, Management has provided an Addendum to the Management Response (Annex 3) proposing additional actions, specifically addressing the Requesters' main concerns. A summary of these actions is provided below:

- CAR will evaluate, in collaboration with the EAAB, the potential to avoid or minimize the loss of the Cortijo-Tibaguya wetland and the environmental buffer zone around the Salitre WWTP Project site. This evaluation is expected to be completed by March 2017 and will cover technical, financial, economic, legal, environmental and social aspects. CAR will submit a report to the Bank documenting the results of this evaluation and share its findings with the Salitre and UPZ 72 Roundtables. In addition, CAR will ensure that any loss of native vegetation on the Salitre WWTP site will be minimized and adequately compensated for, and phased with the restoration of compensation wetlands to the extent possible.
- CAR will continue working on the construction of the Nuevo Cortijo constructed wetland and the restoration of the Juan Amarillo meander. CAR will commission a study in early 2017 to provide recommendations for improving the ecological features of the wetland and meander. CAR will also report progress on these activities and will submit an updated implementation plan by March 2017 to the Bank and the Salitre and UPZ 72 Roundtables.
- CAR will continue its engagement with the community through the UPZ 72 Roundtable and will ensure that members of MCCT and Fundación Colectivo Somos Uno are also engaged.

³⁹ According to the Salitre Social Management Plan, the locality of Suba contains 307,555 households, while the locality of Engativá encompasses 239,881 households.

- CAR will implement a plan to identify and manage potential impacts on tetrapod fauna in the Salitre WWTP project site, especially on “Curies.”⁴⁰
- CAR will include in its proposed communication campaign information about potential health and safety impacts related to the construction and operation of the Salitre WWTP and the measures to avoid and mitigate impacts, especially in the UPZ 72 community.

F. Recommendation

54. In making its recommendation the Panel has taken into account: (i) Management’s commitment to address the consultation issues raised by the Requesters through the continuation of the UPZ 72 Roundtable and (ii) Management’s commitment to completing the actions outlined in its Response and Addendum. In addition to the above and taking into account paragraph 5 of the 1999 Clarifications that provides that “the Inspection Panel will satisfy itself as to whether the Bank’s compliance or evidence of intention to comply is adequate, and reflect this assessment in its reporting to the Board,” the Panel does not recommend an investigation.

55. The Panel notes that this recommendation does not preclude the possibility of a future Request for Inspection based on new evidence or circumstances not known at the time of the current Request.

56. If the Board of Executive Directors concurs with this recommendation, the Panel will advise the Requesters accordingly.

⁴⁰ A South American guinea pig species.