

WITNESS STATEMENT OF DOUGLAS BELTMAN

I, Douglas Beltman, of United States citizenship, and residing in Boulder, Colorado, declare under penalty of perjury as follows:

1. I am an Executive Vice President at Stratus Consulting Inc. ("Stratus") where I have worked since I and others formed Stratus in October 1998. Stratus is an environmental consulting firm located in Boulder, Colorado. I was the Stratus officer in charge of what was referred to within Stratus as the "Ecuador Project," a project related to the case of *Maria Aguinda y otros v. Chevron Corporation* in Lago Agrio, Ecuador. Stratus was hired for the Ecuador Project by Steven Donziger and Kohn, Swift & Graf through a contract with Kohn, Swift & Graf in August of 2007. From approximately August 2007 to approximately April 2010, while Stratus was working on the Ecuador Project, I oversaw and managed the project and needed approval from no one else within Stratus for that work.

DIRECTION AND CONTROL BY DONZIGER

2. Stratus began working on the Ecuador Project in August of 2007 after first meeting with Donziger on April 27, 2007 in Stratus's Boulder, Colorado office. From that point forward, Stratus took its direction for its work on the Ecuador Project from Donziger, who described himself as the lead U.S. lawyer for the Lago Agrio Plaintiffs ("LAPs"). Donziger indicated what tasks he wanted Stratus to perform, edited and approved drafts of statements or reports Stratus would prepare, and assigned, approved, oversaw, and managed all of Stratus's work on the Ecuador Project from Stratus's retention in 2007 until its work on the matter ceased. Donziger was Stratus's principal point of contact for its work on the Ecuador Project and directed work on behalf of Kohn, Swift & Graf.



3. At no time was Stratus's work on the Ecuador Project directed by any of the named plaintiffs in the Lago Agrio Litigation, nor did Stratus ever have any contact with those named plaintiffs or receive an instruction that it understood to come directly from any of the named plaintiffs. Stratus has had no indication that any of those named plaintiffs ever reviewed anything Stratus prepared in connection with the Ecuador Project. Rather, to the extent Stratus received directions from Ecuadorians, those directions came from individuals such as Luis Yanza and Pablo Fajardo, who I understood to be also representing the Lago Agrio Plaintiffs.

4. Based on Stratus's experience during its time as an environmental consultant, Donziger exercised near complete control over major decisions of strategy for Stratus's Ecuador Project. Aside from the issue of funding, I do not recall an instance in which Donziger stated a need to get prior approval from a client or any other individual for a course of action. While others, including Pablo Fajardo and Luis Yanza, participated in decision making regarding the litigation, it was apparent to Stratus that those in the LAPs' Quito office, including Pablo Fajardo, worked for Donziger and Joe Kohn and not vice versa.

5. Regarding budgeting and funding of Stratus's Ecuador Project, it was apparent that Donziger had a significant degree of input, but that for large expenditures, approval from Joe Kohn was also needed. I communicated with Kohn on several occasions to describe Stratus's upcoming work and to seek approval for major expenditures. Nonetheless, we at Stratus understood Donziger to have control of strategy decisions.

MARCH 3, 2007 MEETING

6. It is my understanding that Dr. Ann Maest attended a March 3, 2007 meeting in Ecuador that included Donziger, Pablo Fajardo, Luis Yanza, Fernando Reyes, as well as other

consultants and lawyers for the LAPs. Based upon conversations and review of a video clip, I understand that Richard Cabrera also attended the meeting.

STRATUS WAS HIRED AND CONTROLLED BY DONZIGER

7. I understand that Ann Maest suggested to Donziger that he consider retaining Stratus to conduct a damages assessment, and that that suggestion led to Donziger contacting Stratus.

8. After some initial contact, Donziger met with Stratus on April 26, 2007, at Stratus's offices in Boulder, Colorado. A portion of this meeting was filmed by the *Crude* film crew. Joshua Lipton, Ann Maest, David Chapman, Preston Sowell, and I attended the meeting with Donziger. At that meeting, Donziger described Stratus's work as the preparation of a damages assessment on behalf of the LAPs for the Lago Agrio Litigation. Donziger described the specific elements of damages that he wanted to include in the damages assessment using an April 22, 2007, memorandum that he had previously provided to Joshua Lipton. In a prior email to Joshua Lipton, which I have reviewed, Donziger stated that the damages assessment would help be the basis to justify "a major damages claim, probably in the many billions of dollars."

9. Stratus entered into a retention agreement with Donziger and Kohn, Swift & Graf on August 20, 2007, to perform, among other things, a damages assessment. The contract specified that Stratus "shall coordinate with and receive technical direction regarding the scope of work from Clients' Project Manager." I understood that Donziger was the Clients' Project Manager.

DONZIGER INSTRUCTIONS REGARDING SECRECY

10. Donziger insisted at all times that all aspects of Stratus's work related to the damages assessment, including Stratus's and the Lago Agrio Plaintiffs' lawyers' and representatives' meeting with Cabrera, their involvement in drafting the damages assessment and the November 2008 responses to the Lago Agrio Plaintiffs' September 2008 questions or comments regarding the Cabrera Report (the "Responses") remain absolutely secret. Donziger stressed to me and Ann Maest the importance of Stratus ensuring that no one learn of Stratus's involvement in any aspect of the Cabrera Report, including the comments and Responses, unless Donziger directed us to reveal it – which he never did. Donziger instructed me that Stratus not tell anyone of Stratus's involvement with the Cabrera Report or Responses. Donziger also instructed me not to tell the LAPs' spokesperson, Karen Hinton, or Donziger's legal associate, Andrew Woods, that Stratus participated in drafting the Cabrera Report and certain of its annexes.

11. Stratus was aware that Donziger and the LAPs' representatives were not disclosing to the public that the LAPs' lawyers and their consultants had been involved in preparing the Cabrera Report. At Donziger's direction, Stratus also represented the Cabrera Report as having been prepared by Cabrera, including confirming the understanding of prospective endorser Lou Blanck that the "report is by an expert appointed by the judge..."

12. Donziger's secrecy instruction led me to affirmatively police communications and documents for anything that could reveal Stratus's or the LAPs' representatives' involvement in drafting the Cabrera Report and Responses. When Karen Hinton requested a report prepared by Dr. Richard Clapp for Donziger, which Stratus had converted into an annex for the Cabrera Report, after conferring with Donziger, I told her I was "not sure of its



pedigree” to keep her from giving it out as authored by Dr. Clapp. Likewise, when Donziger wanted to provide Congressman McGovern’s office material prepared by Clapp that had either been included in the Cabrera Report or I believed might be included in the Responses to the LAPs’ comments on the Cabrera Report, I kept that from occurring to avoid distributing “proof” that Stratus and the LAPs’ team wrote the Cabrera Report.

13. On November 9 and 10, 2008, United States Representative Jim McGovern visited Ecuador on a “fact-finding trip” in part related to the Lago Agrio litigation. In early November 2008, Steven Donziger instructed me to talk to Richard Clapp regarding Clapp’s interactions with the Congressman regarding the Cabrera Report so Clapp didn’t “go off the reservation and talk to the congressman in a way that damns the Cabrera report with faint praise.” Steven Donziger also did not authorize Stratus to disclose its role on the Cabrera Report to the congressional delegation. Based on his instructions, I helped Steven Donziger limit the distribution of one of Richard Clapp’s reports, which was intended for the Cabrera Response, so that the delegation and others would not have that document. In the following months, Steven Donziger also instructed me to honor a request from the Congressman’s office for talking points and notes. At no time did Donziger authorize disclosure of Stratus’s role in the Cabrera Report and the Cabrera Response to Congressman McGovern or anyone on his staff.

CABRERA MEETINGS

14. Donziger asked Ann Maest and me to travel to Ecuador in early January 2008 as part of our work on the damages assessment. On this occasion, we were in Ecuador from January 13 to 19. During this trip, at Donziger’s request Ann Maest and I met with Richard Cabrera, Steven Donziger, Pablo Fajardo, Luis Yanza, Luis Villacreces, and others at the private



residence of Juan Aulestia in Quito. Donziger told me that the purpose of Dr. Maest and me attending this meeting was for Cabrera to meet us. Based on interactions between Cabrera, Donziger, and the LAPs' team at this meeting, it was clear that Donziger, the LAPs' legal team, and Cabrera were working closely together. No one was present from Chevron and it was evident from the location and discussion that the meeting was meant to be private. I did not have an understanding from that meeting that Cabrera said that he needed the LAPs' team's materials in advance of his report filing deadline with the court.

15. Based on that meeting with Cabrera and a review of his background, Cabrera lacked the skill, qualifications, and experience to conduct or review a multi-disciplinary environmental damages assessment himself.

16. At no time did I ever see any indication of an independent Cabrera "team" nor did I ever meet anyone I understood to be a member of Cabrera's "independent team." To the contrary, individuals that I am aware of who assisted in preparing the Cabrera Report were affiliated with or working at the direction of Donziger and the LAPs' representatives.

17. At no point during Stratus's time working on the Ecuador Project, including at the January 2008 meeting, did I have an understanding that Cabrera was preparing his own report. It was clear from statements Donziger and others made that the LAPs' team expected the Lago Agrio court to rely upon the Cabrera Report in rendering its judgment.

18. To the extent Cabrera was paid for any work associated with drafting the Cabrera Report, hiring his own expert "team," or drafting any of the responses to the LAPs' comments regarding the Cabrera Report, I saw no evidence that he actually performed any such work.

THE LAPS' FEBRUARY 2008 SUBMISSION TO CABRERA

19. I understand now that in a document dated February 18, 2008, the LAPs filed a notice with the Lago Agrio court stating that they were providing Cabrera with documents. Stratus had no involvement with this submission and whatever the LAPs submitted as attachments to this February 18, 2008 filing was not material drafted by or provided to the LAPs' legal team by Stratus. Whatever the LAPs' representatives submitted could not have been Stratus's drafts of portions of the Cabrera Report. I did not complete the first draft of the portions of the summary report that Donziger assigned to me until early March 2008.

DRAFTING OF THE CABRERA REPORT AND ANNEXES

20. I and others at Stratus understood, based on information provided to us and personal observation, that the former concession area is currently an active oil producing area containing operations by Petroecuador. I did not see any indication that the Republic of Ecuador planned to discontinue its extensive oil production operations in the former concession or surrounding area. To the contrary, I am aware that since the TexPet/Petroecuador concession ended in 1992, Petroecuador has operated in and expanded oil operations in the Oriente.

21. I first visited the Oriente in January of 2008, 18 years after TexPet ceased all oil production operations in Ecuador. Petroecuador was conducting extensive oil operations in the area and had caused contamination as a result of its operations there. Donziger never asked Stratus to conduct an assessment of the contamination caused by Petroecuador or to attempt to allocate any identified contamination between TexPet and Petroecuador. Furthermore, the environmental sampling designed and conducted by the LAPs' representatives indicates that Donziger and the



LAPs' representatives were not concerned with allocating the contamination caused by Petroecuador to anyone but TexPet, and in fact their data do not allow for such an allocation.

22. At Stratus, I was the primary contact with Donziger, and managed the team of Stratus employees doing work for the Cabrera Report. Donziger had generally told me that Stratus's work on the Cabrera Report was permitted and authorized by court order. I prepared the first draft of substantial parts of the document that would be filed as the "Summary Report of Expert Examination," which was the main body of the Cabrera Report. At Donziger's direction, I drafted my portions of the report in the first person as though it was written by Richard Cabrera. I supervised the preparation by Dr. Maest and other Stratus personnel or subcontractors of 11 of the 24 sub-reports and appendices, known as "Annexes," to the Cabrera Report. I reviewed and revised 10 of those annexes before they were filed as part of the Cabrera Report.

23. I prepared the first draft of substantial parts of the document that would be filed in the Lago Agrio Litigation as the "Summary Report of Expert Examination" "By: Richard Stalin Cabrera Vega" on April 1, 2008, and dated March 24, 2008, as the Microsoft Word file "PG.report.v1.doc." I emailed my draft of a portion of the Summary Report to Donziger on February 27, 2008. That document and subsequent versions I prepared, with the assistance of other Stratus employees, were drafted in English, in Cabrera's voice, and state in the first sentence that "[t]his report was written by Richard Cabrera" to provide "expert technical assistance to the Court" in the Lago Agrio Litigation. Later versions were dated March 24, 2008, which is the date I understood the Cabrera Report was to be filed. On March 12, 2008, I sent Stratus's English version of substantial parts of the Summary Report, a Word file named "PGreport.v1.english.doc" for translation to Spanish. The Summary Report was not at that time complete; it still had notes and

placeholders, including for information that would come from specific annexes that were still being completed.

24. I continued to provide comments on and material for the Summary Report and annexes to Donziger and LAPs' team members in Quito up to the night of March 30, 2008, when I provided comments to Donziger on a draft damages table for the Summary Report that I had received from him. On the morning of April 1, 2008, Donziger emailed a Microsoft Word version of the Summary Report named "Informe Sumario Version Final (Steve).doc" to me and Dr. Maest "for translation" to English. It was my understanding that this was an electronic version of the Summary Report that Richard Cabrera was filing that same morning in the Lago Agrio court.

25. In addition to the Summary Report, Stratus or its subcontractors prepared drafts of 11 of the 24 annexes that were filed with the Cabrera Report. Ann Maest personally drafted or managed the drafting of Annexes B, D, and G, and participated in the drafting or reviewing of others. Other Stratus employees drafted Annexes C, J, K, N, O, Q, and T. Stratus employee Mike Carney drafted Annex J, Stratus employees David Mills and Megan Lawson drafted Annex O, David Mills drafted Annex Q, and Eric English and David Mills drafted Annex T. Stratus also hired the subcontractor, William Powers, who wrote the report that was incorporated into Annex S and also used in Annex T. Richard Clapp prepared for Donziger the report that was incorporated into Annex K. With regard to the other annexes filed with the Cabrera Report, my understanding is that Taniya Naranjo and Ximena Echevarria on the LAPs' Quito team drafted Annex E, and others assisted with Annex H, and a company by the name of Uhl, Baron, Rana and Associates ("UBR") drafted the report that was used for Annex R.



26. Stratus retained 3TM International (“3TM”), a small environmental consulting firm located in Houston, Texas, to conduct environmental cleanup costing analyses as part of a mediation process between the LAPs and Chevron. Stratus has worked with 3TM on another project to estimate soil remediation costs. For the Ecuadorian Project, 3TM provided Stratus with drafts of potential soil remediation and unjust enrichment reports around November 2007. Donziger said that for the Cabrera Report he wanted environmental cleanup cost estimates that were different than those conducted by 3TM. As a result, Stratus did not use 3TM’s work in conducting the damages assessment work for the Cabrera Report.

27. Donziger and Fajardo told me to whom authorship of the various Cabrera Report Annexes should be attributed, and I recorded those names in a table. Donziger told me that the reason for the attribution was to make it more difficult to uncover that Stratus had written the Annexes. Donziger told Stratus to indicate on the draft Summary Report that it was written “By Richard Cabrera” and instructed Stratus to draft its portions of the Summary Report in the first person (e.g. “I, Richard Cabrera, find...”). Stratus was provided with a format for annexes from the LAPs that indicated the annexes were written by the “Cabrera Technical Team” rather than Stratus.

28. Misattribution of authorship is not standard practice for Stratus. In other cases, when Stratus has drafted materials for submission to a court or administrative hearing, or any similar proceeding, Stratus had submitted those materials to our clients under Stratus’s name or otherwise made it clear that Stratus participated in drafting the materials, or with no attribution at all.

29. I never discussed the substance of any part of the Cabrera Report or any annex with Richard Cabrera nor received any inquiry from him regarding that report. During the



time of working on materials for the Cabrera Report, I never saw or heard any indications from Donziger, Fajardo, or any other member of the LAPs' team, or anyone else, that Chevron was able to submit information, documents, or their own report to Cabrera. In the many discussions of the drafting of the report, no one affiliated with the LAPs' team suggested that Chevron would be able to provide their own comments, documents, information, data, narratives, summaries, analyses, or reports to Cabrera for his report or that Chevron ever had the opportunity to do so.

30. All of the damage amounts that were included in the draft Summary Report and Annexes provided by Stratus to the LAPs' team appear unchanged in the report filed by Cabrera. The only persons I am aware of working on the Cabrera Report were the LAPs' consultants, lawyers, and affiliates. Although most of my work took place in the U.S., I spent time physically working in the LAPs' team's Quito office at various times in January, February and March of 2008. I never saw any indication of input by Richard Cabrera on the Summary Report or annexes. In fact, the day before I left Quito after working there for a week on the Cabrera Report materials, I saw what I was told was Annex A of the Cabrera Report boxed up in the LAP team's office for transport to and filing in the Lago Agrio court.

31. In all the work Stratus performed, including the drafting of portions of the Cabrera Report, Donziger never instructed Stratus to conduct any analysis of the contamination in the former concession area caused by Petroecuador, including recent spills by Petroecuador. In Stratus's review of the evidence, it observed that some of the samples with the highest levels of petroleum in soil were at sites where Petroecuador had operated or was currently operating. From the documents I reviewed, TexPet had remediated all of the pits it was responsible for in accordance with its settlement agreements with the Government of Ecuador. Nonetheless,

Donziger never told Stratus or me to attribute any of the contaminated soil samples and open pits to Petroecuador.

OVERARCHING ASSUMPTIONS OF THE CABRERA REPORT

32. Stratus used a series of overarching assumptions at the direction of Donziger in developing the opinions and conclusions set forth in the Cabrera Report. These assumptions, combined with specific instructions from Donziger as to each damage category, are determinative of the dollar values calculated in the Cabrera Report's damages assessment.

33. The first assumption Stratus was directed to make was that it was not necessary to allocate any of the responsibility to Petroecuador for the condition of any of the sites in the former concession area. Yet, Stratus was aware of the Settlement Agreement and Release that existed between TexPet, Petroecuador and the Republic of Ecuador. Stratus was also aware that pursuant to the Remedial Action Plan ("RAP") that was part of that settlement, TexPet had agreed to remediate specified sites in the former concession area. The damages assessment in the Cabrera Report is not limited to only those sites that TexPet agreed to remediate in the RAP. To the contrary, the majority of the sites included in the Cabrera Report's damages assessment are sites that were not TexPet's responsibility to clean-up pursuant to the RAP.

34. Second, Donziger directed Stratus to ignore the ongoing clean-up in the former concession area, which was known at the time as the "PEPDA" program. Stratus was not asked to determine the likely cost of carrying out a remediation in the former concession area of the same type as that being conducted by PEPDA. An estimate of the cost to remediate pits or stations in the former concession area should be based on the actual costs of similarly remediating pits or stations in the former concession area, if available. Petroecuador has substantial experience with



similarly remediating pits and stations in the former concession area. Petroecuador's historical costs are the best evidence of unit costs for remediating the pits and stations in the Oriente.

35. The Cabrera Report does not address whether the remedial actions it recommends Chevron pay for were already being undertaken or contemplated by others or had been completed. Stratus was aware that the PEPDA program was remediating pits in the former concession area. Donziger instructed Stratus to ignore the PEPDA remediation in calculating damages for the Cabrera Report. As a result, many of the pits that the Cabrera Report finds require cleanup had already been remediated or were in the process of being remediated by Petroecuador as part of the PEPDA program at the time the Cabrera Report was filed.

36. The third assumption of the Cabrera Report was that the soil cleanup levels identified by the LAPs' lawyers were the appropriate ones to use in the damages assessment. I indicated in a March 4, 2008 email to Juan Pablo Saenz "[s]omewhere along the line someone decided that the 1,000 mg/kg [equivalent to 1,000 ppm] TPH standard for 'ecosistemas sensibles' is the one to use for our case, and I'm trying to write up a justification for it." I came to understand that Donziger and the LAPs' lawyers had decided that the 1,000 ppm standard should be used for the damages assessment, and they later decided that the cleanup level should be lowered from 1,000 ppm to 100 ppm. Per the Agency for Toxic Substances and Diseases Registry ("ATSDR"), "TPH itself is not a direct indicator of risk to humans or to the environment." Donziger instructed us to use the 100 ppm cleanup level for damage calculations knowing it would elevate the remediation cost estimates, and we followed his instructions.

37. The fourth overarching assumption provided to Stratus was the number of pits in the former concession. LAPs' representatives provided Stratus with a "pit inventory" to use

in conducting the damages assessment work that listed 916 or 917 pits as having been constructed by TexPet. Stratus understood that this pit inventory was created by the LAPs' representatives or their associates. Stratus was never requested to, and did not do, a verification that the 916 or 917 pits shown on the inventory in fact existed. Donziger nonetheless instructed Stratus to use the pit inventory as the basis for a remediation cost assessment assuming that its "pit count" was accurate, which we did.

THE CABRERA NOVEMBER 2008 RESPONSE

38. Despite the fact that the LAPs' lawyers and consultants drafted the Cabrera Report, after the Cabrera Report was submitted to the Ecuador court on April 1, 2008, Donziger instructed me to conduct additional damages assessment work for comments on the Cabrera Report that would seek to increase the damages assessed by billions of dollars. I began the process of preparing comments in June 2008. I never before or since have been involved in a situation where I have participated in drafting a report and after that report was adopted by the Court's expert, commented on it.

39. We began planning comments on the Cabrera Report shortly after it was filed. We (Steven Donziger, Pablo Fajardo, Luis Yanza, Jen Peers, Ann Maest and I) met in Boulder June 4-5, 2008 to discuss, among other things, the planned comments. Karen Hinton was also present on June 4th. I understood these comments to be a "formal response to the Court about the Expert's Report." Stratus created an extensive to-do list for the comments project. Ann Maest, David Mills, Jen Peers, and I all worked on portions of the text for the comments. We completed our work on the comments in the U.S. and sent it to the LAPs' team.

40. The comments generally approve of the Cabrera Report but claim that “[t]he omissions we have been able to detect in Expert Richard Cabrera's Expert Report greatly favor the interests of the defendant, given that said omissions either minimize or fail to consider certain environmental damage and legislation that should definitely be taken into account in the evaluation.” The comments, including the portions prepared by Stratus, do not disclose the drafting of the Cabrera Report by Stratus or the LAPs’ representatives, i.e., that the LAPs’ representatives were commenting on their own report. For example, at Donziger’s direction Stratus prepared the soil remediation cost estimate to the Cabrera Report of \$1.7B based on a remediation standard of 1,000 ppm of TPH. It then prepared comments claiming that “the cleanup proposed by the Perito is inadequate, and it will not restore the environment to its original state before the environmental damage occurred” and “we consider 100 ppm TPH to be a much better cleanup level that will achieve an environmental restoration that is much closer to the conditions prior to the damage caused by Texaco, as instructed by the Court.” The text then states “the total cost to remediate soils to 100 ppm TPH should be \$2,743,000,000.” For context, Donziger had insisted on using a standard of 1,000 ppm even though the standard used by PEPDA is 2,500 ppm. He then insisted on further lowering that to 100 ppm.

41. I understand that on September 16, 2008, the LAPs submitted their comments to “the Expert Report filed by Expert, Richard Cabrera Vega”, containing Stratus’s work.

42. I also understand that on September 15, 2008, Chevron filed extensive objections to the Cabrera Report, including 22 scientific expert reports. Donziger did not ask Stratus to analyze Chevron’s objections or draft any response to Chevron’s objections to the Cabrera Report.

43. In October 2008, shortly after the LAPs filed their comments, I received a list of questions the LAPs had directed to Cabrera that the Quito team assigned to Stratus for response. The responses were divided among Ann Maest, Bill Powers, Jen Peers myself and others at Stratus. Continuing to follow Donziger's instructions as to the confidentiality of Stratus's role, Stratus instructed Brian Lazar to edit the language of portions we had already drafted to sound "more like the Perito." Stratus drafted "Cabrera's" responses to the LAPs' comments throughout October and November 2008.

44. I understood that portions of the Cabrera Response that Stratus was drafting would be filed with the Lago Agrio court as if written by Cabrera. My discussions about this work with Donziger and the LAPs' representatives confirmed that Donziger and the LAPs' team wanted the Cabrera's Responses to increase the damages assessed by billions of dollars.

45. I understood that Cabrera filed the "Cabrera Response" based at least in part on text written by the LAPs' representatives and consultants, including Stratus, on November 17, 2008. The Cabrera Response incorporated work, calculations, and text written by Stratus, among others, and increased the damages assessed in the Cabrera Report from \$16 billion to \$27 billion.

46. Stratus sent Joe Kohn its invoices for the work it did in drafting the Cabrera Report and certain of its annexes, for drafting the comments to the Cabrera Report, and for drafting the Cabrera Response to the comments. In addition to its invoices, Stratus sent Joe Kohn budgets for this work and also sent him memos or emails regarding the work to address questions he raised about the work being done. In addition, Stratus met with Joe Kohn to discuss its work on the

Ecuador Project. Based on our invoices and memos or emails to him and conversations with him, Joe Kohn paid Stratus's drafting of portions of the Cabrera Report and Cabrera Response.

**DAMAGES CATEGORIES IN THE CABRERA REPORT
AND CABRERA RESPONSE**

47. Stratus prepared or revised draft annexes in the Cabrera Report finding more than \$14.6 billion in damages. Stratus also prepared or revised support for damage calculations in the Cabrera Response finding an additional \$7.8 billion in damages. These findings of \$22.4 billion accounted for approximately 80% of the \$27.3 billion in damages in the Cabrera Response. Below are the categories of damages that the Cabrera Report and Cabrera Response assessed against Chevron. The Cabrera damages assessment is tainted and not supported by reliable scientific bases and I disavow it.

48. **Soil (\$2.7B) (Cabrera Response and Annex N).** The soil remediation damages assessment of \$2.7 billion in the Cabrera Response is dependent on the LAPs' pit count, as well as on Donziger's instruction not to use the LAPs' Ecuador remediation costs compiled by 3TM. Notably, 3TM's calculations which Donziger explicitly directed me not to use, produced cleanup costs much lower than those in the Cabrera Report and Cabrera Response. Likewise, relying on the publicly available costs for Ecuadorian remediation contractors or the costs reported by Petroecuador would have produced cleanup of a fraction of those in the Cabrera Report and Cabrera Response. These local unit costs represent the best measure of unit costs that would be actually incurred in conducting a remediation in the former concession. Stratus at no time made any independent determination of the number of pits in the former concession that either (a) existed or (b) required remediation. Stratus at no time verified as reasonable for Ecuador the cost it was instructed to use in connection with the soil remediation estimate. The \$2.7B damages assessment



in the Cabrera Responses and Annex N cannot be relied upon to support any claim of damages against Chevron, and it is not an accurate, reliable, or valid estimate.

49. **Groundwater (\$3.2B) (Cabrera Response).** Stratus determined that there was insufficient scientific data available to estimate the cost of any groundwater cleanup in the former concession. Due to the lack of data proving the extent of any groundwater contamination, Stratus did not include a groundwater damages assessment in the Cabrera Report, and instead estimated unit costs to remediate groundwater in the text it drafted for the Cabrera Response. However, a \$3.2 billion groundwater damages assessment that appears to be based on Stratus's unit costs is included in the Cabrera Response. There are no scientific data to support a \$3.2 billion groundwater remediation, nor am I aware of any scientific basis for the \$600 million for groundwater remediation award in the judgment. The \$3.2 billion damages assessment and the \$600 million damages award for groundwater remediation cannot be relied upon to support any claim of damages against Chevron, and they are not accurate, reliable, or valid estimates.

50. **Potable Water (\$428M) (Annex R).** This damages assessment as originally prepared by UBR recommended that a groundwater study be conducted to determine the existence and extent of any groundwater contamination in the former concession. That study was not done. In the absence of such a study, the damages assessment calculates an estimated cost of a potable water system. Stratus is not aware of any scientific evidence that people in the former concession area are drinking water contaminated with petroleum. To the contrary, none of the drinking water samples I have seen exceeded the drinking water guidelines or standards established by WHO and the U.S. EPA for any chemical compound related to oil operations, let alone exclusively TexPet operations. In light of the absence of any evidence that people are drinking water contaminated with petroleum compounds, there is no basis for the need to build a potable

water supply system because of any petroleum contamination, let alone contamination linked explicitly to TexPet. The \$428 million damages assessment for potable water cannot be relied upon to support any claim of damages against Chevron for ongoing petroleum contamination of drinking water caused by TexPet.

51. **Healthcare System (\$480) (Annex P).** Stratus was not involved with the preparation of this annex. Stratus did not attempt to verify the conclusions of this annex. I am not aware of any scientific data that shows that any adverse health effects are caused by contamination from petroleum operations in the Oriente.

52. **Natural Resources Damages (\$1.7B) (Annex O).** This \$1.7 billion damages assessment includes land lost due to the construction of roads, wells and stations. Natural resource damages assessment laws and regulations in the U.S. for hazardous waste sites typically do not allow for the assessment of damages for construction of roads and facilities. Donziger nonetheless instructed Stratus to include in this damages assessment land lost due to the construction of roads and facilities, which we did. The remainder of these damages is based on there being a compensable loss associated with oil contamination in the Oriente, without providing any direct evidence of the magnitude of that loss. Moreover, the damages assessment for tropical rainforest losses is based on the application of an economic approach that is not relevant to any losses incurred by the LAPs. Therefore, the claim for Natural Resource Damages in Annex O cannot be relied upon to support any claim of damages against Chevron for damages to the environment caused by TexPet.

53. **Cancer (\$9.5B) (Cabrera Response and Annex Q).** The amount of \$6.8 million per cancer death used in this annex was not based on any type of damages assessment.

Stratus had never previously performed any type of human cancer assessment in this case. During the Ecuador Project, Donziger repeatedly emphasized to Stratus the idea of recovering for region-wide “excess cancer” deaths. Also in accordance with the instructions of Donziger, Stratus used the results of the Beristain/Maldonado survey and a San Sebastian study despite the uncertainties inherent in those studies. Both the Maldonado and San Sebastian surveys are flawed and have large uncertainties for calculating excess cancer deaths in the Oriente from petroleum contamination. Neither establishes that there were, in fact, any actual “excess cancer” deaths from exposure to petroleum contamination. Moreover, Stratus received comments from San Sebastian that his data had been used incorrectly. Accordingly, the conclusion that there were 1,400 “excess cancer” deaths near the oil operations area is invalid and unsupported. Stratus is not aware of the “value of lives lost” as being used to calculate resource damages in U.S. courts, but Stratus was encouraged by Donziger to use this figure and did so. Stratus never determined that any individual actually got cancer as a result of oil production. The Cabrera Report cannot be relied upon to conclude that any individual actually has gotten cancer as a result of living near oil operations in the Oriente, that there was any elevated risk of cancer from living near oil operations in the Oriente, or that there is any reliable or valid basis for the damages assessed to Chevron.

54. **Unjust Enrichment (\$8.4B) (Cabrera Response and Annex T).** Donziger instructed Stratus to prepare this estimate without any discussion of who would actually have been responsible for paying the “avoided” cost under TexPet’s operating agreement. Stratus used data from Bill Powers, who included costs for fields operated exclusively by Petroecuador, and who made assumptions that I did not attempt to verify. I understand this category is a form of punitive damages in Ecuador. I have never used this category before in any damages assessment, and I have no basis to believe that this is a valid claim.



55. **Indigenous Culture Recovery (\$430M) (Annex M).** Stratus was not involved with the preparation of this annex, and made no attempt to verify any of the alleged damages or proposed remedies. I have no basis to believe that these damages are valid or accurate.

56. **Infrastructure Improvements for Petroecuador (\$375M) (Annex S).** This damages assessment is premised on the assumption provided to Stratus by Donziger that Chevron should be liable for upgrading the infrastructure used by Petroecuador. Stratus did not attempt to verify this assumption, but rather included this category of damages at Donziger's direction. Stratus does not know that this assumption is valid or reasonable.

57. Per Donziger's instructions, Stratus had to conduct damages assessment work for the Ecuador Project using only the data and information that were provided to us at Donziger's direction. Stratus was not allowed to collect the additional data that it thought was relevant to the damages assessment. The damages assessment in the Cabrera Report and Cabrera Response are based on many assumptions provided by Donziger and the LAPs' representatives that Stratus does not know to be true, reasonable or accurate. In addition, I now believe the Cabrera process was tainted by Donziger and the LAPs' representatives. As a consequence, the damages assessment in the Cabrera Report and Cabrera Response are tainted and not supported by reliable scientific bases and therefore I disavow the Cabrera Report and Cabrera Response.

FAILED ENDORSEMENTS AND THE STRATUS COMMENTS

58. At Donziger's request and direction, I sought to secure endorsements of the Cabrera Report from scientists and academics. While seeking endorsements, I did not reveal Cabrera's connection to the LAPs' or Stratus's role in drafting the Cabrera Report. I understood that Donziger's effort to secure endorsements for the Cabrera Report was designed to bolster the



report's legitimacy and value. Though done at Donziger's instruction, I regret not being transparent with everyone I solicited comments from on the Cabrera Report regarding Stratus's role in drafting the report.

59. Because the effort to secure third party endorsements failed, Donziger directed me to provide him with the December 1, 2008, "Stratus Comments" endorsing the Cabrera Report. I drafted the Stratus Comments, and they were signed by myself and four other Stratus scientists. Other than Donziger, no one outside of Stratus endorsed the Stratus Comments. In his edits, Donziger included language in the Stratus Comments describing Cabrera as a "neutral expert" equivalent to that of a United States "Special Master." By then it was apparent that Cabrera was not neutral, and had not conducted himself in the same manner as a Technical Special Master in the US would conduct himself. Nonetheless, I did not remove that language in the Stratus Comments.

60. The December 1, 2008 Stratus Comments do not disclose that Stratus drafted substantial portions of the Cabrera Report, but instead state that the report was prepared by Cabrera. The decision to issue the Stratus Comments and their content was influenced greatly by Donziger. I and Stratus deeply regret stating in the Stratus Comments that Cabrera was equivalent to a United States "Special Master." Moreover, the Stratus Comments were intended to be an endorsement of the Cabrera Report and Cabrera responses. Because I know that the damages assessment in the Cabrera Report and Cabrera Response is not supported by a scientific basis, and because I now believe the Cabrera process was tainted by Donziger and the LAPs' representatives, I withdraw and disavow any endorsement of the Cabrera Report and Cabrera Responses, including the December 1, 2008 Comments. I have spoken with each of the individuals that signed the Stratus Comments, and each of them similarly withdraws and no longer stands behind or endorses the December 1, 2008 Comments as valid.

61. Throughout the time I worked on the Ecuador Project, I and others at Stratus regularly communicated with Donziger and the other LAPs' representatives via e-mail and over the phone. We exchanged drafts and discussed the Cabrera Report, the comments to the Cabrera Report, and Cabrera Response and the Stratus Comments all via e-mail and over the phone on numerous occasions. Stratus and its subcontractors did the bulk of their work on the Ecuador Project in the U.S. so these types of communications were a necessary and integral part of the work.

PRESENTATIONS TO FUNDERS

62. Under Donziger's direction and oversight, I drafted and made presentations to funders and potential funders of the litigation, including Patton Boggs and Bartlit Beck Herman Palenchar & Scott. At Donziger's insistence, I did not reveal Stratus's or the LAPs' representatives' involvement in drafting the Cabrera Report or the Cabrera Response, or Cabrera's connection to the LAPs during any of these presentations.

MEDIA COMMUNICATIONS

63. Throughout the entire time I worked on the Ecuador Project, I visited the Oriente on approximately seven occasions between January 2008 and October 2009. Many of the sites I visited in the Oriente were chosen for me by Donziger or the LAPs' representatives. I do not know the extent to which the conditions I saw at those sites are representative of all the sites in the former concession. Donziger did not tell me to consider or evaluate whether any of the conditions at all the sites I visited were the responsibility of Petroecuador or any operator other than TexPet. I am now aware that of the sites I previously visited, some have been remediated by Petroecuador. When I made public statements, whether to the media or otherwise, regarding the conditions I observed in Ecuador, those statements were based on my visits to a limited

number of sites in the former concession and on information provided to me by the LAPs' representatives regarding site operating history, which I did not personally observe.

64. While working on the Ecuador Project, I made a number of statements appearing in press releases and published media reports. I am a scientist. I have learned from this experience that I should stick to science and leave public relations to others. I regret that I allowed myself to be pressured by Donziger to make those public statements. Because of insufficient data and unconfirmed and unsupported assumptions provided to me by Donziger and the LAPs' representatives, and information I have learned since working on the Ecuador Project, I cannot say who may have any responsibility for any environmental contamination in the Oriente, what the extent of such contamination may be or what the appropriate damages amounts may be to remediate any such contamination. Because of this, and because I now believe the Cabrera process was tainted by Donziger and the LAPs' representatives, I cannot stand behind any statements I made to the media concerning these matters.

65. On May 3, 2009, *60 Minutes* aired a segment called Amazon Crude. I was present in Ecuador during the *60 Minutes* filming. Per Donziger's instructions, I did not reveal Stratus's or the LAPs' involvement in drafting the Cabrera Report, or Cabrera's connection to the LAPs' team when dealing with *60 Minutes* or any other media outlet.

66. *60 Minutes* televised the following statements by me: "It's a disgrace. They treated Ecuador like a trash heap." "[I]t wouldn't have happened in the United States. And if it had happened they wouldn't have gotten away with leaving it here for thirty years." I knew at the time that Chevron had never been involved in petroleum explorations activities in Ecuador, that TexPet had conducted a remediation meeting the standards agreed to by the Government of Ecuador, and



that Petroecuador had operated in the region for the past 20 years. Video and still imagery shown during this *60 Minutes* segment reflected Petroecuador rather than TexPet operations. Accordingly, these images and my statements were misleading in the context in which they were presented. I understand Petroecuador has publicly confirmed that they are responsible for remediating the pits at the sites visited by *60 Minutes* (AG4, SSF 38, SSF 61). During the segment, *60 Minutes* visits the home of Manuel Salinas. The water in Mr. Salina's well met USEPA drinking water standards (MCLs).

FALSE PUBLIC STATEMENTS BY THE LAPS' TEAM

67. I understand that the LAPs have stated in court filings that "Texaco knowingly polluted a wide swath of the Amazon rainforest in Ecuador—it is undisputed that the company discharged roughly 16 billion gallons of toxic wastewater directly into the surface waters of the Amazon basin." I never provided the LAPs' team with, and am not aware of, any evidence that would support the statement that the discharged water caused contamination that still exists. During my visits to Ecuador, I never performed any analyses of the discharged water to determine its chemical composition or toxicity.

68. I am aware that Steven Donziger testified to the congressional Tom Lantos Commission that "at least 30 times the amount of oil spilled in the Exxon Valdez disaster has been dumped onto the ancestral lands and onto the waterways of indigenous groups." I am not aware of any credible scientific evidence that would support this statement. .

69. I am aware that Steven Donziger testified to the Lantos Commission that "[i]n this area of Ecuador, the water, soil and air of the Amazon rainforest on which thousands of people depend for almost every aspect of their daily sustenance is for the most part poisoned." I am

not aware of any credible scientific evidence that supports the statement that the water, soil, and air in the Amazon rainforest are, for the most part, poisoned.

70. I am aware that there is a video posted on the website, <http://chevrontoxico.com>, that states “[i]n several independent health evaluations, including one conducted in the village of San Carlos, cancer rates were up to 30 times higher than normal, and the incidence of childhood leukemia was found to have reached alarming levels. One analysis of health and population data found that more than 9,000 people in the area of TexPet’s operations are going to contract cancer in the coming decades—even assuming Chevron undertakes an immediate and comprehensive remediation.” I am not aware of any credible scientific evidence that supports the statement that cancer rates were up to 30 times higher than normal, or that the incidence of childhood leukemia was found to have reached alarming levels. I am not aware of credible scientific evidence that more than 9,000 people in the area of oil operations in Ecuador are going to contract cancer in the coming decades or that links any such incidence to oil operations.

71. I am aware of a post on <http://chevrontoxico.com/news-and-multimedia/chevrons-corruption> that the LAPs’ team authored and posted which states, “[f]rom 1964 to 1990, Chevron (then Texaco) was the sole operator of an oil concession in Ecuador that ravaged thousands of square miles of once-pristine rainforest, poisoned the environment of tens of thousands of people, and decimated Indigenous tribes who had lived sustainably in the region for millennia.” I am not aware of any credible scientific evidence that supports the statement that TexPet’s operation of the concession ravaged thousands of square miles of once-pristine rainforest, that it poisoned the environment of tens of thousands of people, or that it decimated indigenous tribes who lived in the region.



72. I am aware of a post on <http://chevrontoxico.com/about/rainforest-chernobyl> that the LAPs' team authored and posted which states, "Texaco conducted a sham 'clean-up' of less than 1% of the damage of its former sites beginning in 1995, in most cases merely covering open pits with dirt or burning off the crude by-products." I am not aware of any credible scientific evidence that supports the statement that TexPet (much less Texaco or Chevron) cleaned up only 1% of the damage of its former sites for which it was responsible, or that it did so by merely covering up with dirt or burning off the crude by-products.

73. Based on my own experience in this matter and my own observations of the conduct of Donziger and the LAPs' representatives, I have no scientific bases to believe any of the public statements referenced above to be true.

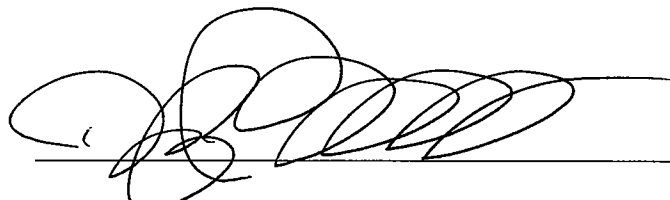
STRATUS 1782 PROCEEDINGS

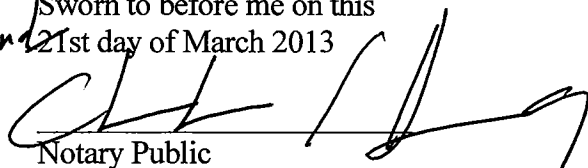
74. Stratus became aware of Chevron's request for discovery under Section 1782 around February 2010. Stratus was, at that time, prepared to make full disclosure and turn over documents requested regarding the Cabrera Report and Stratus's role in it. Indeed, Stratus disclosed all material facts regarding its involvement in the Cabrera Report to Stratus's own counsel, Joe Silver and Martin Beier of Silver & DeBoskey, and to Jeff Shinder of Constantine & Cannon. Donziger and the LAPs' counsel encouraged Stratus's counsel to delay compliance, with the issued subpoena, in ways that Stratus's counsel did not feel were consistent with his ethical obligations. Absent intervention by Donziger and the LAPs' U.S. counsel, Stratus would have turned over to Chevron all documents in accordance with the schedule set forth in the Court proceeding. A litigation consultant working with Donziger and Patton Boggs attorneys obtained Stratus's documents and files several months before the documents were provided to Chevron.

75. I have reviewed the notes of Martin Beier from the meeting held on March 17, 2010, and attended by Martin Beier, Joe Silver, Jeff Shinder, and myself. These notes accurately reflect the information I provided at that meeting with one exception. The notes indicate that I saw the entire Cabrera Report boxed and ready to be shipped for filing in the LAPs' representatives offices in Ecuador. My current recollection is that I saw what I was told was Annex A boxed up in the LAPs' representatives offices ready to be shipped to Lago Agrio for filing by Cabrera.

76. For all my reports and testimony, including my deposition on September 9, 2011, I based my opinions and conclusions on a series of assumptions and data provided to me by Donziger and the LAPs' representatives that I do not know to be true. In addition, the damages assessment in the Cabrera Report and Cabrera Response are tainted. Therefore, I disavow any and all findings and conclusions in all of my reports and testimony on the Ecuador Project. I deeply regret that I allowed myself and my company to be used in the Lago Agrio Litigation in the way that we were, as detailed throughout this declaration.

I state under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on March 21, 2013, in New York, New York.


DOUGLAS BELTMAN

Sworn to before me on this
22nd 21st day of March 2013

Notary Public

CHEIKH S. DIENG
Notary Public, State of New York
No. 01DI6271613
Qualified in New York County
Commission Expires Nov. 05, 2016