

# New Evidence of Chevron Fraud From Final Judicial Inspections in \$27 Billion Environmental Case



## *Amazon Defense Coalition*

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**Contact: Karen Hinton at 703-798-3109 or [karen@hintoncommunications.com](mailto:karen@hintoncommunications.com)**

**Caroline Bennett at 510-520-9390 or [caroline@amazonwatch.org](mailto:caroline@amazonwatch.org)**

QUITO, Ecuador - Evidence that two Chevron lawyers committed fraud in Ecuador apparently has grown stronger with a new court-ordered report finding extensive levels of toxic contamination at two oil well sites that the company claimed to have "remediated" in the mid-1990s, representatives of indigenous and farmer communities said today.

The report was submitted this week to an Ecuador trial court in a high-profile environmental lawsuit where Chevron faces a \$27.3 billion liability for dumping billions of gallons of toxic waste into the waterways of the Amazon rainforest over an area roughly the size of Rhode Island. It covers information from the final eight judicial inspections of 102 total performed in the case, clearing the way for a decision in the coming months.

The plaintiffs had charged that the eight inspections were requested by Chevron earlier this year as part of an 11th-hour effort to further delay the end of the trial. That move clearly backfired against Chevron with the results, which were submitted by Dr. Marcela Munoz, a respected Ecuadorian scientist who was appointed by the court but paid by Chevron for the work, said Pablo Fajardo, the Ecuadorian lawyer who represents the communities in the class action case who have pressed the lawsuit since 1993.

"In this case, more inspections produces more evidence against Chevron," he said.

Chevron has reported it expects an "adverse" decision in the case and is preparing for appeals, while representatives from the communities say they will seek to enforce any judgment against the oil giant immediately in U.S. courts based on evidence that Chevron has tried to corrupt the trial process and has stated it will refuse to pay any judgment.

The latest results likely will be used in a criminal fraud indictment pending in Ecuador against two Chevron lawyers and seven former Ecuadorian government officials for lying about the results of the purported remediation in the mid-1990s in exchange for a release from government claims against the company, said Fajardo.

Chevron has attempted to use the remediation as a defense in the trial, but in light of the evidence it has little or no value, said Fajardo. Chevron's continued use of the defense in the face of scientific evidence clearly exposing the remediation as a sham calls into question the company's credibility on all aspects of the trial, he added.

"Not only does the remediation fail as a defense at trial, it has backfired into a criminal indictment against Chevron lawyers who orchestrated a fake clean-up with the apparent help of corrupt Ecuadorian government officials," Fajardo said.

The so-called remediation, performed by Texaco between 1995 and 1998, consisted largely of dumping dirt over a small portion of the 916 unlined pools of toxic waste to hide them from local residents, said Fajardo. All 45 of the "remediated" sites previously inspected during the trial showed extensive and illegal levels of Total Petroleum Hydrocarbons (TPHs), some thousands of times higher than Ecuadorian norms, according to a damages assessment produced in April 2008 by a team of court-appointed experts.

Of the final eight inspections, two were of well sites that Texaco claimed to have "remediated" in the mid 1990s. Both of the sites – Auca 17 and Auca 19 – contained levels of TPHs in the soil and water at levels several times higher than the maximum allowed by Ecuadorian law.

For example, Auca 19 had TPHs at 5,710 ppm, or more than five times the maximum tolerance allowed under Ecuadorian law. Auca 17 reported TPHs at 1,580 ppm, or more than 50% higher than the norm. Chevron had certified both sites as "remediated" to Ecuador's government in the mid-1990s as part of its clean-up plan.

Results from three other sites inspected – Yulebra, Yuca Central, and Auca Central – also reported soil contamination several times higher than Ecuadorian norms, according to reports submitted by Dr. Munoz. (No samples were tested for hydrocarbons at three of the eight sites because the parties did not request them.)

The results are consistent with the damages assessment from April 2008, which found that 100% of the 94 Chevron well sites previously inspected during the trial were extensively contaminated with cancer-causing toxins, some at rates hundreds of times higher than permitted by Ecuadorian law.

The earlier damages report found the oil giant might be liable for up to \$27.3 billion in damages for polluting the soils with the unlined waste pits and systematically dumping billions of gallons of toxic waste into Amazon waterways while Texaco (now Chevron) was the sole operator of an oil concession from 1964 to 1990. Experts have dubbed the disaster the "Amazon Chernobyl" and said a clean-up would involve the largest decontamination effort in history.

Chevron's top lawyer in Ecuador, Rodrigo Perez Pallares, signed checks to Dr. Munoz totaling more than \$20,000 for his work in preparing the reports on the final eight sites. This is significant because Chevron has tried to claim that similar checks signed by the plaintiffs to other experts in the case prove undue influence, when in fact they were ordered by the judge consistent with Ecuador court rules -- as were Chevron's payments to Munoz.

Perez Pallares is one of two Chevron lawyers under indictment in Ecuador. The other is Ricardo Reis Veiga, who is Chevron's associate general counsel for Latin America litigation.

The case was transferred to Ecuador from U.S. federal court in 2002 at Chevron's request. As a condition of the transfer, Chevron agreed to submit to jurisdiction in Ecuador and be bound by any ruling there. The trial in Ecuador began in 2003.

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# Amazon Defense Coalition: Chevron Rebuffed On Ecuador Trade Benefits By Obama Administration

**Oil Giant Had Tried to Lobby USTR Over \$27 Billion Environmental Liability in Ecuador's Amazon**

WASHINGTON--([BUSINESS WIRE](#))--In a setback over its attempt to avoid a \$27 billion environmental liability, Chevron has failed for the third time in as many years to convince the Obama and Bush administrations to cancel bilateral trade benefits for Ecuador in retaliation for letting indigenous groups sue the oil giant in that country's courts.

Ecuador's trade benefits were automatically renewed for six months at midnight when the Obama Administration failed to initiate a review of the issue, despite intense Chevron lobbying in Congress and at the office of the United States Trade Representative. Chevron had hired two former U.S. trade ambassadors – Mickey Kantor and Carla Hills – to approach officials at the agency they formerly headed to seek a cancellation of the benefits, but to no avail.

If Chevron had succeeded in canceling the benefits, Ecuador's government estimated the country would have lost 350,000 jobs. Similar lobbying efforts by Chevron -- last year and in 2006 -- to enlist U.S. trade policy as a pressure point in the private lawsuit met stiff opposition from a number of Senators and Congressmen, and also failed.

The extension of the benefits comes just one day after the U.S. Supreme Court denied Chevron's attempt to appeal a decision that prevented it from arbitrating the liability with Petroecuador, Ecuador's state-owned oil company. The company is also being investigated by New York State Attorney General Andrew Cuomo to determine if it misled shareholders about its financial risk in Ecuador.

The long history of the case appears to be haunting Chevron as it suffers a series of setbacks in courts, with regulatory agencies, and in the media. The company was recently the subject of unflattering reports on 60 Minutes and in several newspapers, including the Wall Street Journal, Financial Times, The New York Times, and The Washington Post.

While it now claims it is not receiving a fair trial, Chevron had fought for nine years to transfer the legal case to Ecuador after it was originally filed in 1993 in U.S. federal court in New York. As a condition of the transfer, Chevron agreed to submit to jurisdiction and be bound by any ruling in Ecuador. The company also submitted 14 sworn affidavits praising the fairness of Ecuador's courts.

Once the trial in Ecuador started in 2003 and the evidence pointed to Chevron's culpability, the company launched a public relations and lobbying campaign to discredit Ecuador's courts and pressure Ecuador's government to quash the case. The threat of U.S. trade policy was the primary "weapon" Chevron chose to create leverage with Ecuador's government to pressure it to

interfere in the legal case on Chevron's behalf, said Steven Donziger, an American legal advisor to the 80 indigenous and farmer communities suing the oil giant.

"Chevron's lobbying effort was based on the theory that Ecuador's President could be forced to violate his country's Constitution by interfering in a private litigation," said Donziger. "By engaging in these heavy-handed tactics reminiscent of the worst days of Uncle Sam, Chevron has damaged its own image and that of other U.S. investors in Latin America."

"Chevron's management and its lobbyists need to let the trial in Ecuador conclude without further interference," added Donziger.

Texaco (now Chevron) had admitted to dumping billions of gallons of toxin-laced "water of formation" into Ecuador's Amazon over an area the size of Rhode Island when it operated a large oil concession from 1964 to 1990. The pollution has been dubbed the "Amazon Chernobyl" by several experts, some of whom believe a clean-up would dwarf the largest decontamination effort ever undertaken.

A final decision on a \$27.3 billion damages assessment, prepared by a court-appointed special master and team of experts, is expected later this year. Chevron has said it expects an "adverse" decision and will appeal, while **the plaintiffs say they will seek to have the judgment enforced immediately in U.S. courts** because of Chevron's attempts to undermine the trial process and cause wanton delay.

Further exacerbating the humanitarian situation is that five indigenous groups in the region have seen their cultures decimated by oil-related contamination, and all are struggling to survive on small areas of largely poisoned land. Rep. James McGovern (D-MA), the only member of Congress to have visited the region, called it a "terrible humanitarian and environmental crisis" in a letter to President Obama written in November of last year.

"It is past time for those responsible for this contamination to step up to the plate and be held accountable," wrote McGovern in the letter. "I...saw the infrastructure Texaco/Chevron created that allowed for the wholesale dumping of formation water and other highly toxic materials directly into the Amazon and its waters."

Chevron was able to rally several business organizations to its side, including the U.S. Chamber of Commerce, the Business Roundtable, and the National Association of Manufacturers (Chevron contributes funds to each of these organizations). But just last week, four Democratic U.S. Senators – Wyden, Durbin, Leahy, and Casey – wrote a letter to the USTR asking it to ensure that it does not meddle in the lawsuit on behalf of Chevron.

In 2006, then-Sen. Obama and Senator Leahy wrote a similar letter to the USTR asking that it reject Chevron's attempts to use trade policy to pressure Ecuador's government over the lawsuit.

### **About the Amazon Defense Coalition**

The Amazon Defense Coalition represents dozens of rainforest communities and five indigenous groups that inhabit Ecuador's Northern Amazon region. The mission of the Coalition is to protect the environment and secure social justice through grass roots organizing, political advocacy, and litigation. Two of its leaders, Luis Yanza and Pablo Fajardo, are the 2008 winners of the prestigious Goldman Environmental Prize.

## **Contacts**

Amazon Defense Coalition  
Karen Hinton, 703-798-3109  
[karen@hintoncommunications.com](mailto:karen@hintoncommunications.com)