

5-14-2010

ECUADOR: CHEVRON SQUANDERS MONEY AS LAWSUIT NEARS END

Luis Ángel Saavedra

Follow this and additional works at: http://digitalrepository.unm.edu/la_energy_notien

Recommended Citation

Saavedra, Luis Ángel. "ECUADOR: CHEVRON SQUANDERS MONEY AS LAWSUIT NEARS END." (2010).
http://digitalrepository.unm.edu/la_energy_notien/177

This Article is brought to you for free and open access by the Latin American Energy Policy, Regulation and Dialogue at UNM Digital Repository. It has been accepted for inclusion in NotiEn: An Analytical Digest About Energy Issues in Latin America by an authorized administrator of UNM Digital Repository. For more information, please contact amywinter@unm.edu.

ECUADOR: CHEVRON SQUANDERS MONEY AS LAWSUIT NEARS END

By Luis Ángel Saavedra

Chevron (formerly ChevronTexaco) wasted millions of dollars to delay the trial brought against it by Ecuador's Amazonian Indians and campesinos for the environmental disaster caused by 20 years of oil exploitation. The verdict is expected to go against the company and to be handed down within the next two months.

In 2001, Texaco Petroleum Company was bought by Chevron, which then became ChevronTexaco until 2005 when Chevron dropped Texaco from its name. Texaco extracted petroleum in the Ecuadoran Amazon from 1967 to 1990 in a joint venture with state-owned Petroecuador. As part of its operations, the company built an oil pipeline across Ecuador from the Amazon jungle to the Pacific port of Esmeraldas, set up 22 pumping stations, drilled 339 wells, and obtained some 1.5 billion barrels of crude, roughly 80% of the nation's oil production during that period.

An incalculable disaster

It is impossible to calculate the environmental damage Texaco caused with the tons of toxic material, open-air, unlined toxic waste pits, and more than 19 billion gallons of toxic wastewater--with saline levels six times that of ocean water and hydrocarbon and heavy-metals residues--that it dumped in the Ecuadoran jungle, as well as contamination from gas flares, which burned 2 million cubic meters of gas a day without any control.

The damage was premeditated, since what held sway was the zeal to cut costs to increase profits, rather than using existing technology to reduce environmental impact.

In 1993, 30,000 Ecuadoran campesinos and Siona, Secoya, Cofán, Kichwa, and Huaorani Indians decided to sue the oil company, filing a claim in the US (NotiSur, 2001-06-08). However, the company refused to accept the US court's jurisdiction and, after ten years of litigation, managed to get the case assigned to a small court in the Amazonian city of Lago Agrio, where the trial might be conducted with less rigor (NotiSur, 2003-05-23).

In the Corte Suprema de Justicia (CSJ) of Sucumbios, the plaintiffs were able to prove that Texaco destroyed large areas of jungle, depleting natural resources that the communities used for medicinal, nutritional, and domestic and recreational purposes.

They also proved that Texaco was responsible for endangering the life of the communities on lands exploited by it, since the contamination raised the indices of cancer, spontaneous abortions, nervous disorders, and intestinal and respiratory infections.

Esperanza Martínez of Acción Ecológica, a leading Ecuadoran environmental organization, said Texaco is also guilty of genocide since its actions resulted in the extinction of groups such as the Tetetes and the Sansahuaris. "All that is left is the name of two groups that are now mestizos," said Martínez.

Trial of the century

The Lago Agrio CSJ accepted the challenge of hearing the case against the oil giant after the US courts sent the case to the Ecuadoran judiciary in 2003. On Oct. 21, 2003, Chevron had to submit to Ecuadoran jurisdiction in what has been called the environmental trial of the century, since it is the first time that a transnational oil company has been tried in a country in which it operated.

In its opening argument, the oil company attempted to avoid trial by claiming that it could not be judged for something that it had not done, that it could not be charged for actions attributed to Texaco, Inc. The defense argued that ChevronTexaco was not a successor of Texaco and thus could not be held responsible for anything.

When that argument failed, Chevron asked that the charges be dismissed on the grounds that Texaco carried out a US\$40 million cleanup operation in 1988, after which the Ecuadoran government absolved it and its subsidiaries of any further liability. The communities bringing the suit agreed that Texaco had carried out environmental-reparation work but said it was insufficient, inadequate, and ineffective.

When Chevron's attempts to have the case dismissed failed, the lawsuit continued and the oil company went on the offensive, soliciting innumerable expert reports to delay the verdict as long as possible or manipulate the evidence of the extensive contamination and, in a parallel move, filing a series of international-arbitration motions against the Ecuadoran government to force it to pressure the plaintiffs and the Lago Agrio CSJ to drop the suit.

Millions for acts of corruption

In the final phase of the trial, Judge Juan Núñez was assigned to rule on the Texaco case; however Chevron was able to disqualify him by leaking video and audio tapes apparently showing a bribery scheme involving cleanup contracts and perhaps the judge, who allegedly said on one tape that he would rule against the oil company. Chevron insisted that it was not involved in the tapings and that it received them from Diego Borja and Thomas Hansen, former Chevron contract employees.

Núñez withdrew from the case. "Judge Núñez has correctly realized that his position has become untenable. No judge who has participated in the type of meetings shown in the video could possibly have rendered a legitimate decision....It is important that prior rulings of the judge be annulled, including numerous improper rulings to facilitate and shield from scrutiny the biased Cabrera process," said a Chevron statement. The statement refers to Ecuadoran geologist Richard Cabrera who headed a court-appointed team assigned to investigate environmental and health effects of the contamination.

With Núñez off the case, the US oil company again tried to have the suit thrown out. That plan went awry, however, when Borja's activities as a Chevron employee were discovered. Besides filming the conversation with Judge Núñez, Borja had set up four front companies in various parts of the US where he planned to send samples collected in the areas contaminated by Texaco for analysis.

Along with the Borja scandal, another act of corruption was denounced by the plaintiffs, this time by US citizen John Connor, who, at Chevron's request, acted as an expert in five legal inspections. Connor gave a sworn statement affirming that Chevron had paid him approximately US\$5 million for his work; that is, at least US\$1 million for each expert report. This seems to validate Diego Borja's recent comment regarding the Judge Núñez video scandal, "Crime does pay."

Luis Yanza, coordinator of the Asamblea de Afectados por Texaco, compares what was spent on the trial and what was spent on the supposed environmental reparation in 1988. "Chevron spent US\$40 million for a false environmental cleanup. If we consider that there were 45 legal inspections and Chevron paid the experts US\$1 million per inspection, we face the inconceivable and immoral possibility that Chevron has spent US\$45 million to date, just to influence the experts' reports in order to dupe the court."

Connor affirmed in his statement that Chevron paid him directly rather than through the court as the law and procedural practices require. "If [Chevron] can spend US\$45 million just to influence the court-appointed experts, how much will their lawyers receive, for whom putting up obstacles and delaying the trial seems to have become a lucrative business," said Yanza.

Added to the expenses for experts are the millions spent on lobbying in Washington to have Ecuador's preferential trade tariffs suspended, plus tens of millions more on the multiple arbitration requests in The Hague, London, and New York, aimed at pressuring the government to interfere with the judiciary.

"Chevron had declared war on the Ecuadoran government because it cannot win the suit that we have brought in Lago Agrio," said plaintiffs' lawyer Julio Prieto.

The Chevron trial continues with a new judge, Leonardo Ordóñez, who has said that he will not be pressured by any of the parties. If that is the case, Chevron will be compelled to pay damages of close to US\$27 billion, a sum that undoubtedly will bankrupt many US investors who maintain shares in the company.