

3-24-2011

Chevron Trying to Avoid Historic Ecuador Verdict

Luis Angel Saavedra

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

Recommended Citation

Saavedra, Luis Angel. "Chevron Trying to Avoid Historic Ecuador Verdict." (2011). https://digitalrepository.unm.edu/la_energy_notien/99

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 disc@unm.edu.



Your information source on Energy Policy, Regulation
and Dialogue in LATIN AMERICA



Chevron Trying to Avoid Historic Ecuador Verdict

By Luis Ángel Saavedra

On Feb. 14, 2011, Judge Nicolás Zambrano of the Corte Provincial de Justicia in Sucumbíos, Ecuador, handed down a historic ruling ordering oil giant Chevron-Texaco to pay US\$9.5 billion for environmental damages incurred during 28 years of oil exploitation during which the company used obsolete technology and deliberately released more than 18 billion gallons of toxic wastewater into the northern Amazon region of Ecuador.

Sucumbíos province has a long history of plundering of its natural resources, beginning in the 1940s with the exploitation of rubber and lumber. But it was oil, discovered in the early 1970s, that caused the greatest devastation in the region. This happened with the blessing of the national governments at the time, which never promoted the region's development even though oil came to account for 56% of national income.

The colonization created by resource extraction gave birth to various mestizo settlements, among them Nueva Loja, known as Lago Agrio, a small city that serves as the provincial capital and that now commands the attention not only of environmental activists and lawyers but also of the management of the largest oil transnationals.

Texaco arrived in Ecuador in 1964 and began drilling for oil without taking any environmental-protection measures or much less considering the health of people in the area. It operated for 28 years, drilling 339 wells in 15 oil fields, and left in 1992, abandoning 627 toxic-wastewater pools, which affected some 30,000 people, including campesinos and indigenous people from five different nationalities (Siona, Secoya, Cofán, Wuaorani, and Kichwa) as well as two others that no longer exist.

Damages for pain and suffering

The Tetetes and Sansahuaris are indigenous nationalities that disappeared during the 1970s because of the pressure exerted by oil exploitation and, along with it, the advance of colonization. "For the governments, the Amazonía was always an empty region where anyone could do and take whatever they wanted," said Gonzalo López Maraón, former bishop of Sucumbíos, who worked for more than 40 years in the area.

"How much is a nationality worth? How many dollars are needed to revive a people who have disappeared?" asked Esperanza Martínez of Acción Ecológica, the leading Ecuadoran environmental organization.

Judge Zambrano's verdict makes no mention of the disappeared nationalities but does include a very important clause: Texaco, now Chevron, must publically apologize to the people

of Sucumbíos for the crimes committed on their lands; if it fails to do so within two weeks, it will have to pay twice the amount of the monetary damages awarded in the verdict, some US\$19 billion.

"The public apology is redress for the pain and suffering, as Texaco must recognize that it committed an atrocious crime in Sucumbíos," said Martínez.

Lawyers who defend human rights and the rights of nature have always looked for ways to see clauses that go beyond economic compensation incorporated into verdicts that condemn such violations, and Judge Zambrano's decision takes a step forward in forming case law that finally makes it possible to reach a configuration of integral reparation for victims of violations of human rights and the rights of nature. "Judge Zambrano fulfilled a human longing to tie moral damage not only to people but also to nature," said Martínez.

Chevron retaliates

Pablo Fajardo is a young lawyer who studied law on a scholarship from an online university since he comes from a poor family. He is the lead lawyer in the case against the oil giant, for which he was awarded the CNN Hero's Award in the Fighting for Justice category in 2007.

Three weeks ago, Pablo Fajardo was notified that he was being sued. "He came to my office in Lago Agrio, one of the arrogant Chevron lawyers, and said he came to notify me of a lawsuit against me. I told him to leave it on the floor. The lawyer, very upset, left the notification on the floor. Right after that, a national TV channel arrived to ask me what I was going to do with the notification. I told them that the trash collector would come and take it away," said Fajardo about the lawsuit Chevron filed to evade the Sucumbíos judge's verdict.

On Feb. 1 of this year, Chevron filed a lawsuit in New York against the 47 inhabitants of the Amazonia who sued the company initially. There were really 48, but one died of cancer caused by the contamination in Sucumbíos, where the cancer rate is 30% above the national average.

The suit, based on the federal Racketeer Influenced and Corrupt Organizations Act (RICO), accused everyone involved in the case against Texaco of conspiring to extort and defraud Chevron through the suit filed in Lago Agrio in 2003.

The RICO statute is used in the US to go after criminal organizations such as the Mafia. Chevron-Texaco contends that everyone participating in the suit--lawyers, organizations that have supported the suit, and the Sucumbíos court--are part of a criminal conspiracy that is deliberately trying to extort the company for large sums of money.

Fajardo does not appear worried about the Chevron suit against him. "This suit will not have a bearing on the verdict issued because the ruling contains a series of scientific analyses that prove the damage caused and gathers progressive jurisprudence on environmental law. Above all, it leaves no loose ends that would let Chevron get around it....The verdict is the best proof that we have always been on the side of truth," said the lawyer who has been able to back one of the most powerful transnationals against the wall.

Struggle still not over

Chevron has asked for a clarification of Judge Zambrano's 47-point decision; the judge will respond within a couple months. What is certain is that, after the clarification, Chevron will

appeal the decision, shifting the case to the full Corte Superior, where it will take nearly another year to be resolved.

Meanwhile, Chevron will try hard to damage the image of the defendants and Judge Zambrano. "In soccer terms, what Chevron is trying to do is to win the game by taking the players off the field," said Fajardo.

The plaintiffs are also showing no fear. "We have worked many years to get where we are," says Luis Yanza, president of the Frente de Defensa de la Amazonia (FDA), an organization that represents 30,000 indigenous and campesinos participating in the suit.

"We have held countless workshops to, first, look at how to carry out the sentence, since we will expect Chevron to look for ways to arm itself to not comply. Second, we have worked to explain to the people the objective of the verdict, which is not monetary but rather respect for people and for nature. And third, we are working to avoid having a long line of people asking, 'How much will we get?' since the final objective of this struggle is to heal nature," said Yanza.

The FDA undoubtedly has very clear and honest guiding principles with which to face this new attack from Chevron. But, above all, it will be able to see that the trial ends well, a trial on which thousands of people have focused their attention, some with the hope of stopping the predatory impetus of the transnationals, and others, the few, concerned that brakes could be applied to their voracious appetite.