



February 28, 2006

Mr. Christopher Cox
Chairman, U.S. Securities and Exchange Commission
101 F Street, N.E.
Washington, DC 20549

Dear Mr. Cox,

We recently wrote to provide additional information about the Chevron Corporation's failure to disclose information to its shareholders concerning a potential multi-billion dollar environmental liability the company faces in Ecuador's rainforest, where 30,000 Amazonian residents have been in litigation against Chevron for three years with the judgment enforceable in a U.S. court.¹ The rainforest residents allege that Chevron dumped 18 billion gallons of toxic waste-water onto their lands and into their waterways, forcing two indigenous tribes to the brink of extinction and leading to a surge in cancer and other oil-related diseases in local communities. Chevron operated in Ecuador from 1964 to 1992 via its predecessor company, Texaco. We attach a copy of our original letter and supporting legal memo.

We write again because it appears that in the last month Chevron's management has embarked on a public relations campaign designed to further hide its Ecuador liability. This latest campaign concerns a report put out by the court-appointed experts in the Ecuador trial on February 2 that summarized the data on contaminant levels previously reported by both parties at a particular Chevron well site in Ecuador's rainforest, Sacha-53. This report was written by five court-appointed experts who reviewed the respective expert reports from both the affected communities and Chevron. The report found a concentration of 503 mg/l of Total Petroleum Hydrocarbons (TPH), a commonly regulated bundle of toxic petrochemicals, in water in the area contiguous to the oil pits, a value over 1,000 times higher than the maximum permitted level for drinking water under current Ecuadorian law.² Concentrations of barium (3 mg/l) and chromium(VI) (0.09 mg/l) also exceeded the same Ecuadorian standards by three and almost two times, respectively. The fact that concentrations this high were found a distance from the source of contamination (the pit) means that the toxic petrochemicals have migrated through the ground and contaminated potential drinking water away from the wells. Significantly, the court experts in their report explicitly declined to make any judgments as to whether those levels were in compliance with any particular norms or standards, which they properly termed a "judicial matter" to be left to the judge.³

¹ See *Aguinda v. Texaco*, 303 F.3d 470 (2d Cir. 2002).

² [Review and revise if needed with page numbers](#) Permissible limits for TPH under TULAS (*Texto Unificado de Legislación Secundaria del Ministerio del Ambiente*) are 0.5 mg/l; standards for barium and chromium (VI) are 1.0 and 0.05 mg/l ([Informe de Los Peritos Dirimientes de la Inspeccion Judicial del Pozo Sacha-53, Feb. 2006, Table Dir. 9, pg. 47](#)). Current Ecuadorian law -- which, concerning TPHs, is 5-20 times more lax than most parallel norms promulgated by U.S. state environmental quality departments -- applies because the contamination left by Chevron exists and causes harm today. Chevron has tried to argue that current law does not apply. It is the plaintiffs' position that no matter what Ecuadorian law the court applies, be it current norms or statutes from previous years, these levels of contamination violate a variety of laws dating back to 1921. See, e.g., *Ley de Yacimientos*, December 17, 1921 (allowing [impact on the use of](#) local water sources only when the "potability and purity" of the source will not be affected).

³ The length of this court report precludes us from attaching a copy. ~~a copy of the said page is attached.~~ The summary of the results in this letter is based on an analysis by Bill Powers, a petroleum engineer, and Dr. Ann Maest, a chemist who on

Chevron's misinformation campaign was launched within minutes of the release of this court report, when the company posted on its website, and mass-emailed to hundreds of media outlets, a press release that distorted the report's findings.⁴ In addition, Chevron paid to have the misleading press release sent to hundreds of additional outlets through the PR Newswire, a reputable distribution service which specifically targeted potential investors.⁵ In its press release, Chevron claimed the court report had concluded there was no contamination at the well site for which Chevron was responsible, and that it had "validated" the company's defense in the trial. The press release further stated that the court report "found no significant oil-related public health risks" and that the supposed remediation the company conducted in the late 1990s was "effective and in accordance with legal standards." By flooding the news desks and wires with this misinformation, Chevron managed to get several articles published reflecting this misleading information -- including articles in important "trade" publications typically relied on by sophisticated shareholders, such as the Oil Daily.⁶

The evidence that Chevron's press release issued February 2 was misleading is unassailable. While the court-appointed experts properly refused to make "judicial" judgments concerning the company's specific liability, the report did recognize the validity of data submitted to the court by both sides showing highly elevated rates of toxic contaminants at the site in question and throughout the Amazon region where Chevron operated. Even though concentrations of petroleum hydrocarbons and metals in water and soil samples routinely exceed both US and Ecuadorian standards for protection of human health, the company continues to assert in its press releases (including the one of Feb. 2) that there is no ongoing harm in Ecuador. The court report recognized that in soil samples taken from three unlined waste pits at the site (Sacha-53) referred to in the Feb. 2 press release, *Chevron itself* reported levels of TPH and benzopyrene as high as 16,150 mg/kg and 0.96 mg/kg, respectively. TPH levels found in these samples are 6.5 times higher than Ecuadorian norms, and levels of benzopyrene, a known human carcinogen, are 9.6 times higher than Ecuadorian standards for soils. In addition, although Chevron declined to analyze these soil samples for the toxic chromium(VI), the plaintiffs found concentrations as high as 1.99 mg/kg, a value almost five times higher than Ecuadorian limits⁷. In water samples collected from the oil pits, measured concentrations of cadmium and nickel were higher than Ecuadorian standards for human consumption and domestic use. Concentrations of cadmium were 0.01 mg/l (10 times standards), and concentrations of nickel were 0.24 mg/l (9.6 times standards). In addition, measured concentrations of lead in water at the oil pits were 0.18 mg/l, a value 3.6 times higher than both Ecuadorian drinking water standards and the 1989 law for prevention and control of environmental

several occasions has served as an expert witness for the Department of Justice in environmental cases. These individuals are consulting for the affected rainforest communities.

⁴ "Ecuadorian Court's Expert Report Confirms Safety of Texaco Remediation," Chevron Press Release, February 2, 2006, available at <http://www.chevron.com/news/press/2006/2006-02-02.asp>.

⁵ Press releases sent out by the PR Newswire about public companies are often posted directly on investor websites, such as the Money Central site of MSNBC. Through this vehicle, companies such as Chevron are able to reach and influence investors ~~by camouflaging a misleading press release as "independent" news~~. An example of Chevron's success using this method can be found on the MSNBC site at

<http://news.moneycentral.msn.com/ticker/article.asp?Symbol=US:CVX&Feed=PR&Date=20060202&ID=5473269>.

⁶ See "Court Backs Chevron in Ecuador," Oil Daily, Feb. 6, 2006, available at <http://www.energyintel.com/>.

⁷ Under RAOH (*Reglamento ambiental par alas Actividades Hidrocarburiferas*), soil TPH concentrations must be <2,500 mg/kg. Under TULAS, defined in footnote 2, permissible limits for benzopyrene and chromium(VI) are 0.1 and 0.4 mg/kg, respectively. See pgs. 44-45, Table Dir. 8 of the Sacha-53 report.

contamination⁸. In a number of instances, local citizens have built houses on or in close proximity to the oil pits and are consuming water from wells adjacent to the pits.

Chevron's misleading press release is just one example of many in which it appears the company has not abided by its legal duty to communicate honestly with shareholders and the public markets in general. In our extensive discussions with the company leading up to the submission of our previous letter to the SEC, Amazon Watch was disturbed to learn Chevron representatives defend the non-disclosure of this liability to shareholders by asserting that the company provides its interpretation of the Ecuadorian litigation on its website, and that the litigation is periodically mentioned in the press.⁹ These types of "defenses" are irrelevant to the core charge that Chevron is not disclosing the Ecuador liability in its public filings, as required by law. It is the public filings where shareholders look to find honest and relevant information from the company. These are striking illustrations of why formal disclosure in accordance with SEC guidance is essential, especially on high-profile issues, and why Chevron's failure to provide such disclosure could put shareholders and investors at risk.

As we stated in our earlier letter, we believe SEC vigilance is essential to ensuring the sort of frank corporate disclosure that protects individual investors and the overall health of our financial markets. This is particularly vital in cases involving environmental liabilities, which companies are often particularly loath to disclose because of the grave consequences. In the coming weeks, additional reports are being released by independent remediation experts using the results of the inspections to date. These new reports are expected to provide even more detailed estimates of the cost of remediation of this area. In the interests of proper disclosure to shareholders and investors confused or misled by Chevron's latest round of public relations campaigning, Amazon Watch once again urges the Commission to investigate and report on the adequacy of Chevron's compliance with SEC guidance concerning liability disclosure in its Ecuador litigation over the last three years.

Sincerely,



Atossa Soltani
Executive Director, Amazon Watch

Sarah Aird
Legal Counsel, Amazon Watch

cc:
Commissioners:
Cynthia A. Glassman
Paul S. Atkins
Roel C. Campos

⁸ See Table Dir. 10, pg. 66 of Sacha-53 report. The 1989 law is RO 204, *Reglamento para la prevención y Control de la Contaminación Ambiental, en lo relativo al recurso agua. Registro Oficial 204 del 5 de junio 1989. Capítulo III, Art. 18.*

⁹ This "website" defense to non-disclosure is farcical when one considers the same misleading Feb. 2 press release is posted publicly on the Chevron site as part of the company's supposed "disclosure" efforts. For example, nowhere on the Chevron website or in any of the misleading press releases posted there does the company mention the fact that if found liable, the damages it would be required to pay would almost certainly be in the billions of dollars.

Annette L. Nazareth

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