

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF GEORGIA
3 ATLANTA DIVISION

3 In re: Application of)
4 CHEVRON CORPORATION for an) MISCELLANEOUS FILE NO.
5 Order Granting Applicant)
6 Leave to Issue a Subpoena) 1:10-MI-0076-TWT-GGB
7 For the Taking of a Deposition)
8 and the Production of)
9 Documents Pursuant to)
10 28 U.S.C. 1782(a),)
11)
12 Applicant.)

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14 Videotaped deposition of CHARLES W.
15 CALMBACHER, Ph.D., taken by Suzanne Beasley,
16 Registered Professional Reporter and Notary
17 Public, at 1180 Peachtree Street, Northeast,
18 Atlanta, Georgia, on the 29th day of March,
19 2010, commencing at the hour of 9:54 a.m.

1 Q. If you look at the last page of
2 Exhibit 12, Doctor, of the Spanish version, this
3 document was filed in the Lago Agrio courthouse on
4 February 14th, 2005, and attached to it is the
5 signature page that you see there.

6 A. Right.

7 Q. Is that your signature, Doctor?

8 A. It appears to be, yes.

9 Q. And do you know when you signed this
10 document?

11 A. I don't remember signing this document,
12 but a document that was supposed to be for Sacha 94.
13 That would have been in November of 2004 that I
14 signed that.

15 Q. You signed what you believed was a report
16 that was going to be filed for Sacha 94 in November
17 of 2004; is that correct?

18 A. Correct.

19 Q. And could this be the signature page that
20 you signed for that document?

21 A. Yes, it well could.

22 Q. The report that you authorized to be filed
23 an Sacha 94, can you tell us generally what you
24 concluded in that report?

25 A. I concluded that I did not see significant

1 contamination that posed immediate threat to the
2 environment or to humans or wildlife around it. I
3 did not make a significant comment on the chemicals
4 that were there because they were not of interest.

5 They -- I remember that the report that
6 was given to me did mention the heavy metals, you
7 know, the chromium, the lead, the barium, but it just
8 said they were there, you know, and they were this
9 much over an established amount. But that -- I
10 didn't draw any conclusions from that. So they're
11 there. I mean, that was the -- you know, there's no
12 answer, or the answer is that that doesn't prove it's
13 from any sort of petroleum activity, so I didn't draw
14 a conclusion to that effect.

15 Q. While you were working as a judicial
16 inspection expert for the plaintiffs, did you ever
17 conclude that TexPet had failed to adequately
18 remediate one of the sites?

19 A. I didn't no.

20 Q. While you were working as a judicial
21 inspection expert for the plaintiffs, did you ever
22 conclude that any particular site posed a risk to
23 human health or the environment?

24 A. No.

25 Q. Let's look at Exhibit 13.

1 I have one more question on Exhibit 12,
2 Doctor, I'm sorry.

3 To the extent that someone took this
4 signature page that is currently attached at the last
5 page of Exhibit 12 and attached it to this report and
6 represented to the Court in Lago Agrio that you had
7 written this report and reached these conclusions,
8 that would be false, correct?

9 A. That's correct. I did not reach these
10 conclusions and I did not write this report.

11 Q. Okay. Let's take a look at Exhibit 13,
12 which is the document that was submitted to the Court
13 in Lago Agrio as the plaintiffs' judicial inspection
14 report for Shushufindi 48.

15 A. Okay.

16 Q. Is Exhibit 13 a document that you wrote,
17 Dr. Calmbacher?

18 A. No, it is not.

19 Q. On the front page of Exhibit 13, the
20 Spanish version -- there, you've got it. It's
21 bearing the number 52.205. Can you tell,
22 Dr. Calmbacher, if that's your signature?

23 A. It appears to be.

24 Q. Do you know when you signed this page?

25 A. Again, it would have been in November of

1 2004.

2 Q. At the time you signed this page, did you
3 authorize it to be attached to what we have marked as
4 Exhibit 13?

5 A. No, I did not.

6 Q. Are the conclusions that are reached in
7 Exhibit 13 conclusions that you reached about the
8 Shushufindi 48 site, Doctor?

9 A. Let me review that, because I haven't
10 gotten fully there.

11 Q. Okay. Take your time. Let me know when
12 you're done.

13 A. No, these are not conclusions I would have
14 written. And again, I definitely did no estimates of
15 costs or remediation amounts.

16 Q. So the conclusions in the expert report
17 for Shushufindi 48, Exhibit 13, to the extent they're
18 presented to the Court as conclusions you reached,
19 that presentation would be false, correct?

20 A. Correct.

21 Q. Now, you mentioned seeing a document that
22 reached -- well, let me withdraw that.

23 Did you sign both the pages that we've
24 looked at on Exhibits 12 and 13 at essentially the
25 same time, in November of 2004?

1 A. Yes.

2 Q. And after you signed those documents,
3 where did you send them?

4 A. They were sent to Steven Donziger and I
5 guess they were forwarded to Quito.

6 Q. And did you send them directly to
7 Mr. Donziger?

8 A. I'm trying to remember. I can't remember
9 whether I sent -- I think I may have sent them
10 directly to Quito, because they were claiming they
11 had to file the report so quickly.

12 Q. And if you sent them to Quito, who would
13 you have addressed them to?

14 A. It would have been to Edison Camino.

15 Q. Have you ever discussed with Mr. Donziger
16 the conclusions that you actually reached about
17 Sacha 94 that you described for us a moment ago?

18 A. I did discuss what my findings were on
19 this site and others and the fact that, yes, we found
20 some materials there, but it was not conclusive
21 indication of contamination or failure to remediate.

22 Q. Do you believe based on the conversations
23 that you had with Mr. Donziger that if he saw
24 Exhibits 12 and 13, he would know you had not
25 authorized those to be filed on your behalf?

1 A. I believe so, yes.

2 Q. Did you ever sign documents that you
3 thought were going to be attached to reports for
4 either Sacha 6 or Sacha 21?

5 A. I don't remember signing any, no.

6 MS. NEUMAN: I'm going to mark as
7 Exhibit 14 a document bearing the Bates
8 numbers CALM 134 through CALM 152.

9 (Exhibit 14 was marked for
10 identification.)

11 BY MS. NEUMAN:

12 Q. This is a document that you produced to
13 us, Dr. Calmbacher?

14 A. Yes.

15 Q. This document came, I believe, off
16 of -- no, this was produced in hard copy. Can you
17 tell me where you got this document from?

18 A. I had this in some files that I had not
19 purged, so I passed them along. This is a report of
20 those findings from Jennifer Bilbao where she would
21 run the tests on the machine that was brought in.

22 Q. And would those be tests in the field or
23 the hotel room?

24 A. I believe Sacha seis was done in the field
25 and Sacha -- Sacha 6. Sach 21 was done back at the