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8
 9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA
 11 SAN FRANCISCO DIVISION

12 CHEVRON CORP.,
 13 Plaintiff,
 14 v.
 15 STEVEN DONZIGER, and others,
 16 Defendants.

CASE NO. 12-mc-80237 CRB (NC)

**CHEVRON CORPORATION'S
 MOTION FOR RELIEF FROM
 NONDISPOSITIVE PRETRIAL
 ORDER OF MAGISTRATE JUDGE**

[FED. R. CIV. P. 72(A); CIV. L.R. 72-2]

1 Pursuant to Fed. R. Civ. P. 72(a) and Civil Local Rule 72-2, Chevron Corporation respectfully
2 submits limited objections to an order entered by Magistrate Judge Nathaniel Cousins substantially
3 denying motions to quash subpoenas that Chevron served on Google Inc. and Yahoo! Inc. *See* Dkt.
4 70 (Aug. 22, 2013) (“Order”). The majority of Magistrate Judge Cousins’ Order is well reasoned,
5 consistent with controlling precedent, and substantively correct. Chevron submits these discrete
6 objections to ensure that the record is clear that each and every email address at issue was used in
7 connection with the fraudulent activity that is the subject of the underlying litigation.

8 The subpoenas at issue seek only limited identifying and login information for several email
9 accounts that were identified in the course of investigating and litigating a suit that Chevron brought
10 in New York against the main parties responsible for a scheme to defraud Chevron of billions of
11 dollars using the vehicle of a lawsuit in Ecuador. *See Chevron Corp. v. Donziger*, No. 11 Civ. 0691
12 LAK (S.D.N.Y.) (the “RICO action”). The subpoenas seek information relevant to core claims in
13 that action, because the email accounts at issue were used to further that fraud by helping the
14 responsible parties engineer and publicize a fraudulent expert report and judgment in the Ecuador
15 litigation, pressure Chevron into accepting a fraudulent settlement, and otherwise facilitate the work
16 of the defendants in the RICO action.

17 Magistrate Judge Cousins correctly denied the Does’ motion to quash with respect to many of
18 the records at issue and concluded: (1) that the account holders had no First Amendment interest at
19 stake, (2) that they had no privacy interest in the information sought, and (3) that the information
20 sought is relevant to Chevron’s claims. Order at 11-21. Despite reaching these indisputably correct
21 legal conclusions, Magistrate Judge Cousins nevertheless quashed the subpoenas with respect to the
22 accounts of 25 individuals who claim to be “John Does.” Because the Magistrate Judge reached
23 incorrect factual conclusions with respect to these 25 accounts, this Court should reject the August 22
24 Order to the extent it granted the motion to quash.

25 **A. The Existence of Other Discovery Proceedings Does Not Diminish Chevron’s Right to**
26 **Discovery through These Subpoenas**

27 The Magistrate Judge concluded that Chevron was not entitled to information about three
28 accounts—ampage@gmail.com, briansethparker@gmail.com, and lauragarr@yahoo.com—because

1 Chevron obtained or may obtain discovery from the apparent holders of those accounts in other
2 proceedings. Order at 25, 27, 30. The Magistrate Judge erred in concluding that Chevron could
3 obtain the subpoenaed information from those account holders themselves. IP address logs are kept
4 by Internet service providers (“ISPs”) themselves—not by account holders. Chevron’s effort to
5 obtain discovery of certain *other* information from the account holders themselves does not diminish
6 Chevron’s entitlement to obtain additional information that is exclusively maintained by third party
7 ISPs. *See WPIX, Inc. v. Broadcast Music, Inc.*, No. 11-cv-4052 SJO (JEM), 2011 WL 9753912, at *7
8 (C.D. Cal. July 5, 2011) (upholding third party subpoena where it sought information that was “likely
9 distinct” from that produced by the party to the underlying proceeding). Indeed, the record in this
10 case shows that one of the defendants in the underlying action needed to use the identical
11 mechanism—a subpoena to Yahoo!—to obtain this type of information about *his own* email account.
12 *See* Dkt. 47-45 (Ex. 44), Dkt. 55-2 (Ex. B). Accordingly, the discovery sought is not duplicative of
13 discovery sought from the owners of these accounts, and the motion to quash should be denied as to
14 these accounts.

15 **B. The Remaining Quashed Email Addresses Are Relevant to Chevron’s Claims**

16 For the remaining accounts at issue, the Magistrate Judge found that Chevron had not
17 established a heightened standard of relevance—particularized evidence proving the specific
18 involvement of each account in the conduct giving rise to the claims in the RICO action. *See* Order
19 at 27-31. This was error. The law does not impose such a heightened standard, and Chevron
20 satisfied the burden that the law does impose.

21 Chevron had a duty to show that the subpoenaed information is relevant to its claims. *EON*
22 *Corp. IP Holdings, LLC v. T-Mobile USA, Inc.*, No. 12-cv-080082 LHK (PSG), 2012 WL 1980361,
23 at *1 (N.D. Cal. June 1, 2012). The Magistrate Judge correctly held that the subpoenas seek relevant
24 information. Order at 19-21. That alone satisfied Chevron’s burden.

25 Once Chevron established that the subpoenaed information is relevant, the Doe movants had
26 the burden of demonstrating that the subpoenas are unreasonable. *F.D.I.C. v. Garner*, 126 F.3d 1138,
27 1144 (9th Cir. 1997). The Does’ counsel, however, did not submit any sworn testimony or other
28 evidence with respect to the majority of the account owners that they purport to represent. Rather

1 than hold the Does to the consequences of that tactical decision, however, the Magistrate Judge
 2 required *Chevron* to make *an additional showing*: that its subpoenas are reasonable as to each
 3 individual email account. Order at 27-31. That was error.

4 The Magistrate Judge's analysis of relevance was flawed in a second respect. In its
 5 opposition to the Does' motion to quash, *Chevron* submitted exhibits demonstrating that each of the
 6 purported Does who had submitted evidence related to the use of their email accounts was, in fact,
 7 involved in the underlying fraud, *see* Dkt. 46 at 7-8 (citing record evidence), and then separate
 8 exhibits showing that the remaining "Does"—who had not submitted any evidence—were not
 9 anonymous. *See id.* at 8-9 (same). In analyzing the relevance of each email address, the Magistrate
 10 Judge apparently assumed that this latter set of exhibits—which was submitted merely to demonstrate
 11 that the purported Does had themselves disclosed their identities—was the only evidence of the
 12 Does' roles in, and how their email addresses related to, the Ecuador litigation. *See* Order at 27-31.
 13 That assumption was incorrect; each "Doe" has an extensive role in the Ecuador litigation, as
 14 described briefly here:

- 15 • Drewwoods3@gmail.com; drewwoods3@yahoo.com: Andrew Woods, an attorney for the
 16 Ecuadorian plaintiffs who are defendants in the RICO action (the "LAPs"), used these addresses
 17 to communicate with lead defendant Steven Donziger and others about the Ecuador litigation.
See Exs. 1-2;¹ Dkt. 47-32 (Ex. 31).
- 18 • Coldmtn@gmail.com: ██████████ who often goes by the nickname "Han Shan," used
 19 this address to communicate with Donziger and others about his work on behalf of the LAPs.
 20 This included travel to Ecuador "to coordinate media strategy with [LAPs' attorney] Pablo
 [Fajardo]." Exs. 3-4.²
- 21 • Bandawatch@gmail.com: Thomas Cavanagh, who performed extensive work related to the
 22 Ecuador litigation for Amazon Watch, apparently used this address to communicate with
 Donziger about fronting expenses for anti-Chevron propaganda, among other things. Ex. 5.

23 ¹ Unless otherwise indicated, citations are to the Declaration of Alexander Marx, filed herewith.

24 ² The holders of the accounts coldmtn@gmail.com, bandawatch@gmail.com,
 25 josephmutti@gmail.com, marialya@gmail.com, and hueyzaclan@gmail.com are all apparently
 26 affiliated with Amazon Watch, an organization whose involvement in the LAPs' extortionate
 27 scheme has been demonstrated. *See Chevron Corp. v. Donziger*, 871 F. Supp. 2d 229, 248-49
 28 (S.D.N.Y. 2012). The Magistrate Judge notes that "merely being associated with the group
 Amazon Watch does not render a person, or an email address, complicit in the defendants'
 alleged fraud." Order at 28. But a party is not required to demonstrate complicity in fraud in
 order to obtain discovery. All that is required is that discovery be "reasonably calculated lead to
 the discovery of admissible evidence." Fed. R. Civ. P. 26(b)(1).

- 1 • Josephmutti@gmail.com: Joseph Mutti worked with the LAPs in Ecuador, and apparently used
2 this address to communicate with Donziger about this work. Ex 6. Mutti also apparently tried to
3 arrange meetings with Ecuadorian presidential candidates, including President Rafael Correa, on
4 Donziger’s behalf. Ex. 7. Mutti also apparently was responsible for building websites
5 disseminating the LAPs’ propaganda. Ex. 8.
- 6 • Jenbilbao3@yahoo.com: Jennifer Bilbao worked on the LAPs’ first judicial inspection report and
7 apparently used this address to communicate with Donziger about this work. She expressed
8 concern that the LAPs’ experts’ conclusions were not “good enough.” Ex. 9.
- 9 • Lore_gamboa@yahoo.es: Lore Gamboa worked extensively on the LAPs’ environmental
10 sampling efforts in Ecuador, apparently worked under the direction of Pablo Fajardo, and
11 apparently used this address for that purpose. Ex. 10.
- 12 • Goldstein.ben@gmail.com: Ben Goldstein, an intern who worked on the Ecuador litigation at
13 Donziger’s direction, apparently used this address to communicate with Donziger about various
14 matters related to the litigation, including pressuring Chevron to settle the litigation. Ex. 11.
- 15 • Katiafachgomez@gmail.com: Katia Fach Gomez, an intern who worked on the Ecuador
16 litigation at Donziger’s direction, including traveling to Ecuador to perform work, apparently
17 used this address to communicate with Donziger about the litigation. Ex. 12.
- 18 • Kshuk@22@yahoo.com: Kush Shukla, an intern who worked on the Ecuador litigation at
19 Donziger’s direction, including traveling to Ecuador to perform work, apparently used this
20 address to communicate with him about the litigation. Ex. 13.
- 21 • Sayjay80@gmail.com: Sarah Jaffe Singh, an intern who worked on the Ecuador litigation at
22 Donziger’s direction, including traveling to Ecuador to perform work, apparently used this
23 address to communicate with Donziger about the litigation. Ex. 14.
- 24 • Catmongeon@gmail.com: Catherine Mongeon, an intern who worked on the Ecuador litigation
25 at Donziger’s direction, including traveling to Ecuador to perform work, apparently used this
26 address to communicate with Donziger about the litigation. Ex. 15.
- 27 • Wilsonaguinda@gmail.com: Patricio Wilson Aguinda is one of the LAPs. He apparently used
28 this address to communicate with Donziger about the litigation. Ex. 16.
- Sara.colon@gmail.com: Sara Colon, an intern who worked on the Ecuador litigation at
Donziger’s direction, apparently used this address to communicate with him about the litigation.
Ex. 17.
- Farihahzaman@gmail.com: Farihah Zaman, an assistant who worked on the Ecuador litigation at
Donziger’s direction, apparently used this address to communicate with Donziger about the
litigation. Ex. 18.
- Jeremylow@gmail.com: Jeremy Low, an assistant who worked on the Ecuador litigation at
Donziger’s direction, apparently used this address to communicate with him about the litigation.
Ex. 19.

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7 *Attorneys for Plaintiff Chevron Corporation*

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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
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12 CHEVRON CORP.,
13 Plaintiff,
14 v.
15 STEVEN DONZIGER, and others,
16 Defendants.

CASE NO. 12-mc-80237 CRB (NC)

**DECLARATION OF ALEXANDER T.
MARX IN SUPPORT OF CHEVRON
CORPORATION'S MOTION FOR RELIEF
FROM NONDISPOSITIVE PRETRIAL
ORDER OF MAGISTRATE JUDGE**

1 I, Alexander T. Marx declare as follows:

2 1. I am an attorney licensed to practice law in the State of New York. I am an associate
3 at the law firm of Gibson, Dunn & Crutcher LLP, counsel of record for Chevron Corporation
4 (“Chevron”). I make this declaration, based on personal knowledge in support of Chevron’s Motion
5 for Relief from Nondispositive Pretrial Order of Magistrate Judge. If called as a witness, I could and
6 would testify to the same as stated herein.

7 2. Attached hereto as **Exhibit 1** is a true and correct copy of an email chain between
8 Andrew Woods, Steven Donziger, and others, dated September 11, 2009, with the subject “FW: need
9 help,” produced by Steven Donziger and bearing Bates number DONZ00100256.

10 3. Attached hereto as **Exhibit 2** is a true and correct copy of an email chain between
11 Andrew Woods, Steven Donziger, and others, dated July 5, 2010, with the subject “Re: SUSPECT:
12 RE: SUSPECT Re: Chevron,” produced by Steven Donziger and bearing Bates number
13 DONZ00126344.

14 4. Attached hereto as **Exhibit 3** is a true and correct copy of an email chain between
15 Andrew Woods and Han Shan, dated November 18, 2010, with the subject “RE: Quito trip for mtgs
16 with RAN/AW/Frente,” produced by Andrew Woods and bearing Bates number WOODS00012331.

17 5. Attached hereto as **Exhibit 4** is a true and correct copy of an email chain between
18 Karen Hinton, Steven Donziger and Han Shan, dated November 22, 2010, with the subject “FW:
19 Would you?” produced by Steven Donziger and bearing Bates number DONZS00000565.

20 6. Attached hereto as **Exhibit 5** is a true and correct copy of an email chain between
21 Steven Donziger, Thomas Cavanagh, Kevin Koenig, and others, dated July 29, 2009, with the subject
22 “Fwd: invoices,” produced by Steven Donziger and bearing Bates number DONZ00066605.

23 7. Attached hereto as **Exhibit 6** is a true and correct copy of an email chain between
24 Joseph Mutti and Steven Donziger, dated January 11, 2008, with the subject “Re: For your approval,
25 revision before I post,” produced by Steven Donziger and bearing Bates number DONZ00025702.

26 8. Attached hereto as **Exhibit 7** is a true and correct copy of a certified translation of an
27 email chain between Joseph Mutti, Steven Donziger and others, dated August 18, 2006, with the
28 subject “Fwd: Matters,” produced by Steven Donziger and bearing Bates number DONZ00060461.

1 9. Attached hereto as **Exhibit 8** is a true and correct copy of a relevant excerpt of the
2 personal diary of Steven Donziger, produced by Steven Donziger and bearing Bates number
3 DONZ00036246.

4 10. Attached hereto as **Exhibit 9** is a true and correct copy of an email chain between
5 Jennifer Bilbao, Steven Donziger, and others, dated November 26, 2004, with the subject “Re:
6 INFORME SACHA 6 Y SACHA 21,” produced by Steven Donziger and bearing Bates number
7 DONZ-HDD-0055048.

8 11. Attached hereto as **Exhibit 10** is a true and correct copy of an email chain between
9 Lorena Gamboa, Douglas Beltman, and others, dated March 10, 2008, with the subject “RE:
10 respuestas,” produced by Stratus Consulting and bearing Bates number STRATUS-SDNY-0101929.

11 12. Attached hereto as **Exhibit 11** is a true and correct copy of an email from Steven
12 Donziger to Ben Goldstein and others, dated September 6, 2005, with the subject “research
13 project/Venezuela,” produced by Steven Donziger and bearing Bates number DONZ00027856.

14 13. Attached hereto as **Exhibit 12** is a true and correct copy of a certified translation of an
15 email from Katia Fach Gomez to Steven Donziger and Pablo Fajardo, dated August 14, 2010,
16 produced by Steven Donziger and bearing Bates number DONZ00058665.

17 14. Attached hereto as **Exhibit 13** is a true and correct copy of an email from Kush Shukla
18 to Steven Donziger and others, dated July 23, 2006, with the subject “Updated Fraud Memo,”
19 produced by Steven Donziger and bearing Bates number DONZ00023156.

20 15. Attached hereto as **Exhibit 14** is a true and correct copy of an email from Sarah Jaffe
21 Singh to Steven Donziger, dated July 18, 2008, with the subject “update,” produced by Steven
22 Donziger and bearing Bates number DONZ00046927.

23 16. Attached hereto as **Exhibit 15** is a true and correct copy of an email chain between
24 Steven Donziger, Catherine Mongeon, and others, dated July 7, 2008, with the subject “Re: your
25 memo,” produced by Steven Donziger and bearing Bates number DONZ-HDD-0185451.

26 17. Attached hereto as **Exhibit 16** is a true and correct copy of a certified translation of an
27 email from Juan Pablo Saenz to Steven Donziger, Patricio Wilson Aguinda, and others, dated
28

1 June 18, 2008, with the subject “Tareas pasantes,” produced by Steven Donziger and bearing Bates
2 number DONZ00046674.

3 18. Attached hereto as **Exhibit 17** is a true and correct copy of an email from Steven
4 Donziger to Sara Colon and others, dated February 16, 2007, with the subject “update on Ecuador,”
5 produced by Steven Donziger and bearing Bates number DONZ00107205.

6 19. Attached hereto as **Exhibit 18** is a true and correct copy of an email from Farihah
7 Zaman to Steven Donziger, dated March 3, 2008, with the subject “Deleon Account Documents,”
8 produced by Steven Donziger and bearing Bates number DONZ-HDD-0159273.

9 20. Attached hereto as **Exhibit 19** is a true and correct copy of an email from Steven
10 Donziger to Jeremy Low and others, dated July 27, 2008, with the subject “items for Monday,”
11 produced by Steven Donziger and bearing Bates number DONZ-HDD-0189180.

12 21. Attached hereto as **Exhibit 20** is a true and correct copy of an email chain between
13 Steven Donziger, Courtney Wong, and others, dated July 15, 2008, with the subject “Fwd: NEED a
14 Spanish-english legal dictionary!!” produced by Steven Donziger and bearing Bates number DONZ-
15 HDD-0186921.”

16 22. Attached hereto as **Exhibit 21** is a true and correct copy of an email chain between
17 Maria Ramos and Mitch Anderson of Amazon Watch, and others, dated April 5, 2010, with the
18 subject “Re: Status of CVX resolution,” produced by the New York State Comptroller and bearing
19 Bates number NYSCFOIL001631.

20 23. Attached hereto as **Exhibit 22** is a true and correct copy of an email from Guadalupe
21 de Heredia to Steven Donziger, dated October 16, 2007, with the subject “Volunteers are here,”
22 produced by Steven Donziger and bearing Bates number DONZ-HDD-0131188.

23 24. Attached hereto as **Exhibit 23** is a true and correct copy of an email from Mitch
24 Anderson to Andrew Woods and Steven Donziger, dated April 1, 2009, with the subject “Re: RE:,”
25 produced by Andrew Woods and bearing Bates number WOODS-HDD-0096355.

26 25. Attached hereto as **Exhibit 24** is a true and correct copy of an email chain between
27 Steven Donziger and John Rodgers, dated August 31, 2007, with the subject “Re: data base,”
28 produced by Steven Donziger and bearing Bates number DONZ-HDD-0124071.

EXHIBIT 1

From: Andrew Woods [drewwoods3@gmail.com]
Sent: Friday, September 11, 2009 7:39 AM
To: 'Steven Donziger'
Subject: FW: need help
Attachments: Donziger Chevron KF edits 8 sept po edits.doc

From: Paul Orzulak [mailto:orzulak@westwingwriters.com]
Sent: Tuesday, September 08, 2009 12:35 PM
To: 'Steven Donziger'
Cc: 'Andrew Woods'; karen@hintoncommunications.com
Subject: RE: need help

I added a few paragraphs near the end. See what you think.

Paul Orzulak
Partner
West Wing Writers
1150 Connecticut Avenue, NW
Suite 505
Washington, DC 20036

phone 202.223.8101
fax 202.223.8102

From: Steven Donziger [mailto:sdonziger@gmail.com]
Sent: Tuesday, September 08, 2009 7:08 AM
To: Paul Orzulak
Subject: need help

Paul,

I think we should draft an op-ed just on the issue of the bribery scandal, turning it against Chevron and calling on an investigation of top Chevron officials as well as the judge. Might you be able to help? Call me if u surface: 9175662526.

Best, Steven

--

Steven Donziger
212-570-4499 (land)
212-409-8628 (fax)
917-566-2526 (cell)

Steven R. Donziger
Law Offices of Steven R. Donziger, P.C.
245 W. 104th St., #7D
New York, New York 10025
Email: sdonziger@gmail.com

EXHIBIT 2

From: drewwoods3 [drewwoods3@gmail.com]
Sent: Monday, July 05, 2010 7:09 AM
To: Steve Marsden (steve.marsden@magisterlaw.com); Russ DeLeon; Steven Donziger
Cc: Andrew Woods; Lloyd DeVincenzi(lloyd.devincenzi@magisterlaw.com)
Subject: Re: SUSPECT: RE: SUSPECT: Re: Chevron

Steven is dialing in now.

Sent via BlackBerry from T-Mobile

From: "Steve Marsden (steve.marsden@magisterlaw.com)" <Steve.Marsden@magisterlaw.com>
Date: Mon, 5 Jul 2010 16:05:43 +0200
To: 'drewwoods3@gmail.com'<drewwoods3@gmail.com>; Russ DeLeon<Russ@gibglobal.com>; Steven Donziger<sdonziger@donzigerandassociates.com>
Cc: Andrew Woods<awoods@donzigerandassociates.com>; Lloyd DeVincenzi(lloyd.devincenzi@magisterlaw.com)<Lloyd.DeVincenzi@magisterlaw.com>
Subject: SUSPECT: RE: SUSPECT: Re: Chevron

We're waiting on the call

From: drewwoods3@gmail.com [mailto:drewwoods3@gmail.com]
Sent: 05 July 2010 15:49
To: Russ DeLeon; Steven Donziger
Cc: Steve Marsden (steve.marsden@magisterlaw.com); Andrew Woods; Lloyd DeVincenzi (lloyd.devincenzi@magisterlaw.com)
Subject: SUSPECT: Re: Chevron

Please use the following dial in:
Number: (218) 339-4300
Participant Login: 301455#

Thank you

Sent via BlackBerry from T-Mobile

From: "Russ (russ@gibglobal.com)" <Russ@gibglobal.com>
Date: Mon, 5 Jul 2010 15:18:05 +0200
To: 'sdonziger@donzigerandassociates.com'<sdonziger@donzigerandassociates.com>
Cc: 'Steve.Marsden@magisterlaw.com'<Steve.Marsden@magisterlaw.com>; 'awoods@donzigerandassociates.com'<awoods@donzigerandassociates.com>; 'lloyd.devincenzi@magisterlaw.com'<lloyd.devincenzi@magisterlaw.com>
Subject: Re: Chevron

Yes I can do a call then. May be in car but I think reception with be good.

From: Steven Donziger
To: Russ (russ@gibglobal.com)
Cc: Steve Marsden (steve.marsden@magisterlaw.com) ; awoods@donzigerandassociates.com ; Lloyd DeVincenzi (lloyd.devincenzi@magisterlaw.com)
Sent: Mon Jul 05 13:32:23 2010
Subject: Re: Chevron
Russ,

Thanks much for this... can we get on the phone this morning around 10 a.m. EST w Nicolas? Need to update you on Burford and how we coordinate the short-term round. If that time does not work, propose an alternative time. xxx, SRD

On Sun, Jul 4, 2010 at 6:35 PM, Russ (russ@gibglobal.com) <Russ@gibglobal.com> wrote:
Hi all

i made some tweaks to the document previously sent by Steve Marsden for consideration by clients of Mr. Donziger.

Please let's discuss early this week.

best
Russ

From: Steve Marsden (steve.marsden@magisterlaw.com) [Steve.Marsden@magisterlaw.com]
Sent: Monday, June 28, 2010 6:27 PM

To: 'sdonziger@donzigerandassociates.com'
Cc: Russ (russ@gibglobal.com); 'awoods@donzigerandassociates.com'; Lloyd DeVincenzi (lloyd.devincenzi@magisterlaw.com)
Subject: Chevron

Dear Steve

See attached draft addendum to the JRD agreement with ADAT to cover further funding. This is subject to JRD's further instructions, as he has just given an outline and not seen the draft but does want to move the process on.

I attach the original agreement from March as well for ease.

Kind regards

Steve

Steve Marsden | Barrister TEP | Partner

Magister Law

PO Box 1300, Leisure Island Business Centre, Suite 2-1, Ocean Village, Gibraltar

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(Please note the change to our numbers)

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New York, New York 10025
Email: sdonziger@gmail.com

EXHIBIT 3

Message

From: Andrew M. Woods [awoods@donzigerandassociates.com]
Sent: 11/18/2010 10:28:48 AM
To: 'coldmtn@gmail.com' [coldmtn@gmail.com]
Subject: RE: Quito trip for mtgs with RAN/AW/Frente

Send me your details for the ticket:
Full name, passport # and expiration date, birth date, etc. for the secure flight info.

I'll confirm purchasing it with SRD and buy it asap.

-----Original Message-----

From: cold mtn [mailto:coldmtn@gmail.com] On Behalf Of han shan
Sent: Thursday, November 18, 2010 10:27 AM
To: Andrew Woods
Subject: Quito trip for mtgs with RAN/AW/Frente

Good morning,

Good to see ya- hope you had a good dinner.

Here's the deets for the trip... we'll be meeting Mon/Tue/wed in Quito.

I'm hoping to arrive in Quito by Sunday afternoon 12/12
- I can fly super early Sun. am... for instance, I see that there is a
Copa flight departing at 4:57am. I can also fly Saturday if it makes a
big difference in price.

I'm hoping to leave Quito Thursday 12/16 and be back in NYC by Friday am.
- Ideally, I wouldn't leave Quito too early but I would love to arrive
in NYC by 2am Friday am and get some sleep in my bed that night.
However, I see a lot of red-eyes that would have me leaving Quito in the
afternoon and get me in at 5 or 6am, which I can hack.

In other words, I'm flexible. Gimme a ring with questions or to discuss.

Thanks brother!
Han

EXHIBIT 4

From: Karen Hinton [karen@hintoncommunications.com]
Sent: Monday, November 22, 2010 3:58 PM
To: Steven Donziger
Subject: FW: Would you?

Why is it that Maria of all people and Han go to Ecuador to coordinate media strategy with Pablo and I just happen upon this information, and there is absolutely no consideration of my involvement.

----- Forwarded Message

From: Han Shan <coldmtn@gmail.com>
Date: Mon, 22 Nov 2010 19:42:20 -0400
To: Karen Hinton <karen@hintoncommunications.com>
Subject: Re: Would you?

Hey Karen,

I'd be happy to do it, though I'll be in Quito at the time. I should be able to find a good connection via skype or have them call me on a cell phone but maybe it would be good to check with them? Mitch & I will both be there, along with Maria & Ginger from RAN. We're taking the opportunity of Mitch & Maria both being there for separate reasons to dedicate 3 days to meetings & strategy sessions with Frente & folks... talking mobilization post-verdict, Int'l media coordination, etc. (I'd like to check in with you ahead of that trip for your thoughts as well).

Lemme know,

Han

PS Plz excuse any delay in replying... I'm on holiday through the 30th (but, as u can see, I'm occasionally checking email). I'm with my sweetie in Vieques. Sun & sand & what-not ;) Cheers.

Sent from mobile device; pls excuse shortcuts & typos

On Nov 22, 2010, at 7:17 PM, Karen Hinton <karen@hintoncommunications.com> wrote:

Would you do a joint interview with me on The People Speak Radio on Dec. 14th from 9 to 10 pm, live, q/a from audience? They are sympathetic. Liberal. A bit out there, but this guy has been pleading with me to do this.

Here's web site:

<http://www.thepeoplespeakradio.net/about-us/> <<http://www.thepeoplespeakradio.net/about-us/>>

If so, need you bio and pic for their web site.

Karen Hinton

Hinton Communications
1215 19th Street, NW
Washington, DC 20036
karen@hintoncommunications.com <<mailto:karen@hintoncommunications.com>>
703-798-3109, cellular
480-275-3554, fax by email

----- End of Forwarded Message

EXHIBIT 5

From: Steven Donziger
To: Thomas Cavanagh; Kevin Koenig
Sent: Wed 7/29/2009 10:07:13 AM GMT
Subject: Fwd: invoices

If this doesn't move today or tomorrow i will front. srd

----- Forwarded message -----

From: Steven Donziger <sdonziger@gmail.com>
Date: Wed, Jul 29, 2009 at 6:05 AM
Subject: Fwd: invoices
To: Karen Wilson <kwilson@koh Swift.com>
Cc: "Joseph C. Kohn" <jkohn@koh Swift.com>

Karen,

These are receipts that I believe we submitted many months ago. They need to be paid immediately. They concern the trip to Washington from the Amazonian indigenous people in September of last year. A person from Amazon Watch put some of their expenses on his credit card. Pls confirm this will go out asap. Best, Steven

----- Forwarded message -----

From: Kevin Koenig <kevin@amazonwatch.org>

Date: 2009/7/26
Subject: Fwd: invoices
To: Steven Donziger <sdonziger@gmail.com>

Cc: thomas cavanagh <thomas@amazonwatch.org>, Paul Paz y Miño <paz@amazonwatch.org>

steven -
i really need this cash asap. attached are the original receipts from the mayflower for AW and my personal credit card. pasted below are invoices.
thanks
k

Kevin Koenig
Ecuador Program Coordinator
A m a z o n W a t c h

Quito, Ecuador
Skype: canelazo
Ecuador Mobile: 593.9.794.9041
U.S. Cell: 415.726.4607
kevin@amazonwatch.org <<http://www.amazonwatch.org/>>

www.amazonwatch.org <<http://www.amazonwatch.org/>>

Begin forwarded message:

From: Kevin Koenig <kevin@amazonwatch.org>
Date: April 11, 2009 4:32:03 PM GMT-05:00
To: Steven Donziger <sdonziger@gmail.com>
Subject: invoices

yo steven -

i've been asked to follow up with you again on these invoices from the mayflower hotel in washington (pablo and humberto's DC lobbying trip in sept 08). sent you these months ago but hadn't heard back.

there are two charges--one, for \$1,548.73 for pablo/humberto's room put on the AW amex.

then \$1,272.97 for rosa's room put on my personal card.

attached are both the hotel receipts, and an invoice for AW and one for me. you can send both checks to the aw office.

thanks
k

Kevin Koenig
Ecuador Program Coordinator
A m a z o n W a t c h

Quito, Ecuador
Skype: canelazo
Ecuador Mobile: 593.9.794.9041
U.S. Cell: 415.726.4607
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--

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--

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AW invoice steven.pdf

Mayflower 9:17:08 Receipt Paid by AW Amex.pdf

KK invoice steven.pdf

Mayflower 9:17:08 Receipt-Paid by KK Amex.pdf

EXHIBIT 6

From: Joseph Mutti [josephmutti@gmail.com]
Sent: Friday, January 11, 2008 6:05 PM
To: Steven Donziger
Subject: Re: For your approval, revision before I post

I would be happy to except that I'm in Quito right now (was working at FDA today) to leave for Cuba tomorrow and then England. I was fined \$200 by immigration for not renewing my visa in time because I forgot to deal with it when I came in to see you last. I don't have the money to remain and must get back to England where I can earn some money.

Chevron's full page "response" today was more of the same (long list of refuting that noone will read) and a tacit acceptance of guilt by not addressing the out-of-concession charge at all. Bizarre.

J

2008/1/11, Steven Donziger <sdonziger@gmail.com>:

Am editing and will get back to you in a second. Can u come to Quito next week to work with me for one to two days?

On 1/11/08, Joseph Mutti <josephmutti@gmail.com > wrote:

FURTHER ILLEGAL OPERATIONS BY CHEVRON-TEXACO EXPOSED IN ECUADOR

Concession Fraud by Oil Giant Disclosed by Experts after Two Year Investigation

Quito, January 10, 2008--Analysis by an Ecuadorian team of experts following a two year investigation into petroleum concessions authorized by Ecuador to Chevron Oil (at that time operating as Texaco) in the 1960s and 70s have proved that the transnational illegally explored and drilled at least 75 wells in zones that had been mapped out for other companies.

The investigation was carried out by a technical team as part of a massive lawsuit against Chevron for its disastrous contamination of the Ecuadorian Amazon affecting the lives of 30,000 residents in a once pristine rainforest area. The oil company used its influence to drill in favorable sites that were outside its concession area in a process that it was aware was completely illegal.

Chevron-Texaco signed private contracts with the original concession holders, explicitly ignoring Ecuador's Petroleum Law of 1937, which sanctions such behavior with

contract cancellation. After 12 years of illegally operating outside its concession area, Chevron-Texaco was granted a new concession in 1973 to cover the fields it had already been exploiting and whose reserves had thus already been tested.

Of this new concession, less than 40 percent of the area was inside the perimeter that had legally been assigned to the oil company in 1964, which reveals that Chevron-Texaco fraudulently explored and chose territories that were more profitable for its interests in violation of Ecuadorian law.

The documents reveal that of a total of 86 wells that were drilled by the oil giant before August of 1973, 75 were outside its concession area exploited in illegal and hidden private contracts giving Chevron-Texaco an unfair advantage over its competitors.

This new disclosure adds another act of corruption by the multinational to a growing list, among which are:

- Use of a military base to pressure and influence the trial. An agreement with Rayo 24 Battalion of the Ecuadorian Armed Forces existed to provide protection for Chevron operatives by members of the Ecuadorian National Army. According to the contract Chevron-Texaco built a village from where the oil company's officials operated in exchange for a monthly stipend to the base. The soldiers on the base provided extensive logistical help for the U.S. corporation and its employees.
- Pressure on military officials to file a false report. Chevron-Texaco pressured Rayo 24 Battalion officials to file an unauthorized military intelligence report that was delivered to the Nueva Loja High Court with the intention of canceling a court-ordered inspection in Guanta, fabricating threats of abduction, mishap and possible acts of violence on the part of members of the Cofán nation.
- Harassment and threats against members of the plaintiff's legal team. A court appointed technical expert charged with determining a cost for the damage done by Chevron has officially reported acts of harassment and pressure by Chevron employees against his person and others working with him.
- Unethical pressure on the State of Ecuador. Chevron attempted to pressure the Ecuadorian government to reject the environmental lawsuit against it during Free Trade Area of the Americas (FTAA) negotiations. An article printed on November 28, 2005, by the U.S. newspaper "Roll Call" - the most important news source for the U.S. Congress - described how Chevron lobbied U.S. members of Congress to prevent Ecuadorian FTAA membership until the case against the oil company in Ecuadorian courts had been decided.

- Fraud in the remediation process. A special examination carried out by the General Finance Office of the State of Ecuador questioned the "remediation" carried out by Chevron-Texaco between 1996 and 1998, and at the same time filed a charge with the District Attorney's Office providing evidence that fraud by the oil company existed. The accusation is now trapped in the Supreme Court due to pressure exercised by the oil giant.

- Technical Sabotage. Chevron-Texaco has made consistent and concerted efforts to sabotage the sampling process as well as the technical results of laboratory analyses of soil and water.

These and other acts of fraud and corruption show the extent to which Chevron is willing to go to delay and sabotage the Ecuadorian legal process in an effort to avoid a judgment against it that is expected to run into billions of dollars.

--

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New York, New York 10025
Email: sdonziger@gmail.com

EXHIBIT 7

From: Steven Donziger [sdonziger@gmail.com]
Sent: Friday, August 18, 2006 10:23 AM
To: Joseph Mutti
Subject: Re: Fwd: Matters

whenever anybody asks about money keep a brave face, say all is cool.

i can't believe they filed a complaint about Pablo.

On 8/18/06, **Joseph Mutti** <josephmutti@gmail.com> wrote:
Hi Steve,

Thanks for keeping me apprised. Do you really think there's a connection between the lack of payment and Varela? Perhaps I underestimate their power...

Last night Luis and I met with Juana after Pablo reported that the Texaco lawyers had filed a written complaint about him to the judge in Lago saying that he had been making complaints about the judge behind his back. Pablo's going to get a copy of the complaint today. Luis is there now. Luis reported that the judge appears to be backing down from his position regarding the cancellation of the inspections and that pressure must be brought to bear on him. Thus, it was resolved that two members of the coalition will be travelling to Lago next week to meet with the judge. Esperanza already met with him twice this week - once with an accompanying delegation - so he's already feeling the pressure. But, it seems, he's under far more pressure from the nice Texaco suits.

Juana is organizing some international letter writing to the court from intl legal organizations. She wants the letters (they don't have to be many to have an effect) to be faxed next week to maintain the pressure.

The Palacios meeting reached a dead end with Alexis so Luis is pursuing another avenue. He called on it yesterday in my presence.

You're right about the lack of momentum, but here at the Front that has a lot to do with money. Even the guards asked me this morning if we're going under.

Joseph

On 8/18/06, Steven Donziger <sdonziger@gmail.com> wrote:
>
> I send this in confidence so u can keep apprised.
>
> How are the meetings going with Palacio and the candidates? I am worried if

> we don't have meetings skedded every week with somebody we will lose
> momentum. The Coaliton should be meeting with people to press the message
> and to lobby, rather than meeting among itself -- that will keep the
> Coalition members interested and the work vital and best advance our
> interests. SRD

>

> ----- Forwarded message -----

> From: Steven Donziger <sdonziger@gmail.com>

> Date: Aug 18, 2006 10:20 AM

> Subject: Matters

> To: "toxico@ecuanex.net.ec" <toxico@ecuanex.net.ec>, luis francisco <

> lcoca62@yahoo.com.mx>

> Cc: PABLO FAJARDO <pafam@ecuanex.net.ec>, "manuel25@accessram.net" <

> manuel25@accessram.net>

>

>

>

> Luis and Pablo -- Aside from the subject of money, which we will discuss in the afternoon, I
> wanted to share my perspective on the challenges we have:

>

> 1) Confidentially, I have information that the State has not yet paid the attorneys in
> Washington although they have 17 attorneys reviewing documents. I have the suspicion that
> maybe Texaco is lobbying there to freeze the payments. Raul Herrera, the top attorney in
> Washington and an honest man, told me yesterday that last week at a restaurant in Quito he ran
> into Mr. Jaime Varela, the head of Chevron for all of Latin America based in Mexico. Varela
> has been at 2-3 inspections, and he is Reis Vega's boss and has direct contact with the
> leadership in San Ramon. Varela told Herrera that he is spending 1-2 weeks per month in
> Quito. Strange -- Chevron doesn't have operations in Ecuador except the trial. Therefore, I am
> pretty sure that his task is to work with officials from the government, at Petroecuador, the
> judges, in order to protect their interests in the trial there and that include getting them not to
> make the payments to Winston, it's a waste, it's not worth it, the Attorney General is crazy,
> better to use the money for Block 15, etc.

>

> This is very worrisome for two reasons: a) if the State doesn't pay the attorneys in Washington
> within 2-3 weeks, it's possible that Winston will petition the court here to resign from his
> representation, which would be a complete disaster for us because now we have Reis Veiga
> and the rest with our hands on their necks. If he resigns, the state loses and it impacts us very
> badly. b) that Varela is there corrupting various matters.

>

> Therefore, I see the matters like this:

>

> 1) With the coalition we have to make a plan for permanent meetings to lobby to protect our
> interests in the court; Petroecuador; Finance Minister; Palace; Prosecutor; Attorney General.
> This includes the payments. Perhaps, this should be the work of the coalition. But, don't do
> anything about the payments until we talk. Mr. Herrera told me that Alberto Wray is trying to
> resolve this. I think that if the head of CONAIE, plus other members of the coalition, held a
> meeting with the people who decide then they will pay and that can help Alberto's efforts.

>
> 2) In addition to that, we have to create a “solutions” committee in order to determine the
> best way to remediate the damage with a certain amount of money. We need you, Pablo,
> Manuel, Esperanza, Alejandro, etc. This is vital because the matter that I mentioned on my last
> trip can move forward and we don’t have time to perform big in-depth studies now. Manuel,
> we need your help please. If they offer something tomorrow, how do we analyze it? We have
> to get prepared now.

>
> It’s possible that I will come next week for 2-3 days, but I can’t spend a lot of time until
> September my humble companions.

>
> We’ll talk in the afternoon.

>
> Your servant,

>
> SRD

>
>
> --

> Steven Donziger
> 212-570-4499 (land)
> 212-570-9944 (fax)
> 917-566-2526 (cell)

>
> Steven R. Donziger
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> 111 E. 79th St. #5
> New York, New York 10021
> Email: sdonziger@gmail.com

>
> --
> Steven Donziger
> 212-570-4499 (land)
> 212-570-9944 (fax)
> 917-566-2526 (cell)

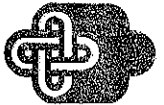
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MERRILL CORPORATION



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State of New York)
Estado de Nueva York)


County of New York)
Condado de Nueva York)

ss:
a saber:

Certificate of Accuracy
Certificado de Exactitud

This is to certify that the attached translation is, to the best of our knowledge and belief, a true and accurate translation from Spanish into English of the attached document.
Por el presente certifico que la traducción adjunta es, según mi leal saber y entender, traducción fiel y completa del idioma español al idioma inglés del documento adjunto.

Dated: January 18, 2013
Fecha: 18 de enero de 2013



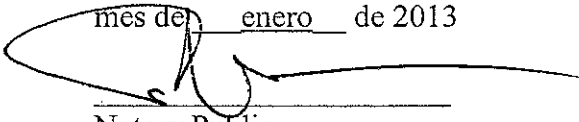
Violeta Lejtman
Team Lead – Legal Translations
Merrill Brink International/Merrill Corporation

[firmado]

Violeta Lejtman
Líder del equipo – Traducciones Legales
Merrill Brink International/Merrill Corporation

Sworn to and signed before
Jurado y firmado ante
Me, this 18th day of
mí, a los 18 días del
January 2013
mes de enero de 2013

ROBERT J. MAZZA
Notary Public, State of New York
No. 01MA5057911
Qualified in Kings County
Commission Expires April 1, 2014



Notary Public
Notario Público

[firmado]
[sello]

From: Steven Donziger [sdonziger@gmail.com]
Sent: Friday, August 18, 2006 10:23 AM
To: Joseph Mutti
Subject: Re: Fwd: Temas

whenever anybody asks about money keep a brave face, say all is cool.

i can't believe they filed a complaint about Pablo.

On 8/18/06, **Joseph Mutti** <josephmutti@gmail.com> wrote:
Hi Steve,

Thanks for keeping me apprised. Do you really think there's a connection between the lack of payment and Varela? Perhaps I underestimate their power...

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Juana is organizing some international letter writing to the court from intl legal organizations. She wants the letters (they don't have to be many to have an effect) to be faxed next week to maintain the pressure.

The Palacios meeting reached a dead end with Alexis so Luis is pursuing another avenue. He called on it yesterday in my presence.

You're right about the lack of momentum, but here at the Frente that has a lot to do with money. Even the guards asked me this morning if we're going under.

Joseph

On 8/18/06, Steven Donziger <sdonziger@gmail.com> wrote:

>

> I send this in confidence so u can keep apprised.

>

> How are the meetings going with Palacio and the candidates? I am worried if

> we don't have meetings skedded every week with somebody we will lose
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> and to lobby, rather than meeting among itself -- that will keep the
> Coalition members interested and the work vital and best advance our
> interests. SRD

>

> ----- Forwarded message -----

> From: Steven Donziger <sdonziger@gmail.com>

> Date: Aug 18, 2006 10:20 AM

> Subject: Temas

> To: "toxico@ecuanex.net.ec" <toxico@ecuanex.net.ec>, luis francisco <

> lcoca62@yahoo.com.mx>

> Cc: PABLO FAJARDO <pafam@ecuanex.net.ec>, "manuel25@accessram.net" <

> manuel25@accessram.net>

>

>

>

> Luis y Pablo -- Aparte del tema de plata, lo cual hablamos por la tarde,

> quisiera compartir mi perspectiva sobre retos que tenemos:

>

> 1) En confianza, tengo informacion que el Estado todavia no ha pagado los
> abogados en Washington aunque tiene 17 abogados revisando documentos. Tengo
> la sospecha que quizas Texaco esta cabildeando alla para congelar los
> pagos. Raul Herrera, el abogado mayor en Washington y un senor honesto, me
> conto ayer que el se encontro la semana pasada en un restaurante en Quito
> Sr. Jaime Varela, el jefe de Chevron para todo America Latina con base en
> Mexico. Varela ha estado en 2-3 inspecciones, y es jefe de Reis Veiga y
> tiene contacto directo a la jefatura en San Ramon. Varela conto a Hererra
> que esta pasando 1-2 semanas por mes en Quito. Extranos -- Chevron no tiene
> operaciones en Ecuador menos el juicio. Entonces, estoy casi seguro que su
> tarea es trabajar con oficiales del gobierno, de PetroEcuador, de los
> jueces, para proteger sus intereses alla en el juicio y eso incluye que no
> hacen los pagos a Winston, es un desperdicio, no vale la pena, el Procurador
> es loco, mejor utiliza la plata para Bloque 15, etc.

>

> Eso es muy preocupante por dos razones: a) si no paga el Estado los abogados
> de Washington dentro de 2-3 semanas, es posible que Winston va a petitionar
> la corte aqui para renunciar su representacion, la cual seria un desastre
> total para nosotros porque ahora tenemos Reis Veiga y lo demas con nuestros
> manos en su cuello. Si renuncia, pierde el estado y nos impacta
> terriblemente. b) que Varela esta alli corrompiendo sobre varios asuntos.

>

> Entonces, veo los temas asi:

>

> 1) Con la coalicion tenemos que hacer un plan de reuniones permanantes para
> cabildear para proteger nuestros intereses con la corte; Petroecuador;
> Ministro de Finanzas; Palacio; Fiscal; Procurador. Eso incluye los pagos.
> A lo mejor, este debe ser el trabajo de la coalicion. Pero, no haga nada
> sobre los pagos hasta que hablamos. Sr. Herrera me dijo que Alberto Wray
> esta tratando de resolver. Yo creo que si el jefe de CONAIE, mas otros
> miembros de la coalicion, tuvieran una reunion con las personas decisivas
> entonces pagaran y eso pueda ayudar los esfuerzos de Alberto.

>
> 2) Otra cosa es tenemos que crear un comite de "solucion" para determinar la
> mejor manera de remediar los danos con una cantidad tal de plata. Se
> necesita Ud, Pablo, Manuel, Esperanza, Alejandro, etc. Es vital porque la
> cuestion que mencionaba en mi ultimo viaje pueda proceder y no tenemos
> tiempo de hacer grandes estudios de fondo ahora. Manuel, necesitamos la
> ayuda tuya por favor. Si ofrecen algo mañana, como analizamos? Tenemos que
> prepararnos ya.

>
> Es posible que vengo la semana que viene por 2-3 dias pero no puedo pasar
> una cantidad de tiempo grande hasta Septiembre mis companeros humildes.

> Hablamos por la tarde.

> Su servidor,

> SRD

> --
> Steven Donziger
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EXHIBIT 8

Sept 8

Trip home on plane. I feel us in control of the case in way I have not felt before. The entire dynamic seems to favor us, and as we get down to the wire, they are playing to lose and everything they seem to try backfires. These are the points:

Pablo and Luis are just stunning in their competence. The design of the PG is brilliant, and I just don't see any way T can get around it. I am so glad they did not listen to me. Even the encuesta, which I thought would be a waste, is going to turn out incredible

No matter what accusation they make, we control the frame of the debate. They just cannot get around the visuals, the fact they did this, and the fact their only defenses are technical. They are a big oil company.

Our team is incredibly strong even below the legal level. Lupita, Garces, and Yopez work great together. The only one who has worsened with time is APV. The experience we have gotten by fighting through their delays has made us so much better. And the expertise we can draw on – Pocho with YouTube, Augustin with HAVOC, various ministers and government people.

Joseph Mutti is back – our website is stronger than ever.

Any bad thing I was worried about almost doesn't matter. If the judge is recused, the PG will still go on. If they inspect HAVOC, it won't matter because that lab only sampled a small portion of the evidence. This is a train hurtling down the tracks and they cannot control.

Other thoughts and events on this trip: meeting with Coalition, SRD speech about how three ways to lose – we don't win; we “win” at a miniscule level; or the trial never ends. Our biggest weakness is the fact one judge must decide. But now T has united court against it by asking for recusal. It looks desperate.

Sept 5 2007 (big gap)

Just arrived in Quito last night after being away for one month. The tenor of the case has changed. I can see the light at the end of the tunnel, but the last mile of the marathon is the hardest. Texaco has kicked it into high gear in an effort to destroy the legitimacy of the process. This has two goals: to set it up so they have an argument on appeal in Ecuador, and ultimately, to have an argument in the U.S. when we move to enforce a judgment. And, if they can accomplish it, to derail the trial itself to prevent it from finishing. I want to set up a special projects legal entity to handle non-case related stuff –

EXHIBIT 9

From: Jen Bilbao [jenbilbao3@yahoo.com]
Sent: Friday, November 26, 2004 2:12 AM
To: Steven Donziger; Monica Pareja; Dave Russell; alberto wray
Subject: Re: INFORME SACHA 6 Y SACHA 21

Hi Steve,

I am very concerned about my two reports. I have sent the files to Edison 2 weeks ago..and he sent me back the documents yesterday, but when i opened them I saw that Edison didn't change anything but a map! I am not so sure if he even read them. And now he tells me to go ahead and print them and sign them. But not any lawyer have ever reviewed them! I really don't think the conclusions are good enough. I left them like this because I wanted you guys to tell me to write what is best for the trial!!

So, I urgently need somebody to read it and tell me what changes to make, cuz I don't think we will win any case with those conclusions..

The deadline for my reports are December 2, and 3. And I need to send them to Ecuador which will take like 3 or 4 days.

I have written to Alberto but I haven't recieved any answer. could you help me please?

Best regards,

jen

Steven Donziger <sdonziger@yahoo.com> wrote:

I really was hoping Jen's questions would have been answered by now. in terms of using ASI results, unless alberto disagrees, i would advise using them while at the same time acknowledging the chain of custody problems beyond our control. they are what they are -- use them for what they are. best, steven

--- Jen Bilbao wrote:

> Hola Edison:

> Acabo de recibir los archivos, pero
> lastimosamente es demasiado tarde para
> enviarlos hoy dia, y mañana es Thanksgiving por
> lo que todo esta cerrado, pero el viernes sin
> falta lo envio.

>

> Algo que no me quedo claro fue que si tengo que
> esperar que Alberto de el visto bueno de los
> dos resportes o imprimo asi como estan. A mi
> parecer las conclusiones no estan muy
> completas...y no se si se puedan usar los datos
> del laboratorio ASI de Estado Unidos, si es que
> si se pueden se debe nombrar algo de ellos en
> las conclusiones, para lo cual se necesita

11/26/2004

DONZ-HDD-0055048

> estandares de l'imites maximos permitidos para
> poder concluir que esos contaminantes son
> perjudiciales para las personas que viven ahi.
>
> Por favor escribeme lo antes posible para
> solucionar esos problemas,
> Saludos,
> Jen
>
>
> edison camino wrote:
> Hola Jen:
>
> Listo. Aquí están las dos Informes. Hay que
> imprimirlos en 4 copias cada uno. Tres
> entregaremos a la corte, y uno mantendremos en
> el archivo de Quito.
>
> 1) Cada copia anillar y empastar.
>
> 2) El Oficio de presentación del Informe al
> Juez, con firma original. Rubrica corta en cada
> una de las hojas, extremo derecho, del medio
> hacia abajo.
>
> 3) Enviar los ocho anillados a la dirección del
> Dr. Alberto Wray en Quito.
>
> 4) Hemos enviado los mismos archivos al Dr.
> Wray para que los revise. Es necesario que él
> nos de el último visto.
>
> 5) Luego enviar todo hoy mismo a Quito, por un
> courier como FEDEX.
>
> Saludos,
> Edison
>
>
>
>
> -----
> Do You Yahoo!?
> Todo lo que quieres saber de Estados Unidos,
> América Latina y el resto del Mundo.
> Visita Yahoo! Noticias.
>
>
>> ATTACHMENT part 2 application/msword
> name=INFORME CORREGIDO SA6.doc
>

11/26/2004

DONZ-HDD-0055049

>
>> ATTACHMENT part 3 application/msword
> name=INFORME CORREGIDO SA-21.doc
>
>
> -----
> Do you Yahoo!?
> Take Yahoo! Mail with you! Get it on your
> mobile phone.

=====
Steven Donziger
212-561-7456 (land)
917-566-2526 (cell)

Steven R. Donziger
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101 Fifth Avenue, 8th Floor
New York, New York 10003
Email: sdonziger@yahoo.com

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EXHIBIT 10

From: [Doug Beltman](#)
To: [Lorena Gamboa](#)
Subject: RE: respuestas
Date: Monday, March 10, 2008 2:59:00 PM

Hey Lorena:

Thanks for your response. I'm sorry my email was a shock.

I want to make sure I'm clear about this: I do not have the authority to tell you what you should be doing or how - that is for Pablo. I also don't know what he has asked you to do - he and I have never talked directly about what you are doing. I do know that we were tasked with coming up with losses at pits and stations, and my email yesterday was to make sure that you weren't doing the same thing. Then, as I thought more about the topic, it occurred to me that the wells themselves are not the source of the deforestation that I think you're looking at (but again, I'm not sure). That is why I suggested doing something with roads, because they seem to be the source more than the wells. But please keep in mind that I'm not sure exactly what your task is, and that Pablo is the authority for that.

I'll review your file as soon as I can and get back to you. One quick thing: You mention that it won't work to assume an equal amount of roads impacted at each well. That is a good point. Perhaps the way to do it is to not try to make a direct link between impacts from roads and specific wells. Instead, make the simplifying assumption that the % of area affected by roads is proportional to the % of wells installed in each year. For example, if there are 1,000 hectares impacted by roads over all time, and 10% of the wells were installed by 1972, then the impacts from roads in 1972 is 100 hectares. It is a big simplifying assumption, but I'm not sure how else to do it.

Also, would you please explain a little more what you mean by "The kilometers length for the roads was taken random." Thanks.

Cheers

Doug

=====
Douglas Beltman
Executive Vice President
Stratus Consulting Inc.
303.381.8000
303.381.8200 (fax)
www.stratusconsulting.com

-----Original Message-----

From: Lorena Gamboa [mailto:lore_gamboa@yahoo.es]
Sent: Monday, March 10, 2008 2:20 PM
To: Doug Beltman
Subject: respuestas

Hi Doug,

Please, find attached my message for you.
I await your comments,

Lorena

----- Mensaje original -----

De: Doug Beltman <>
Para: lore_gamboa@yahoo.es
Enviado: domingo, 9 de marzo, 2008 23:44:39

Asunto: RE: questions

Hey Lorena:

I won't be in Quito this coming week, but I may be there the week after (the week of March 17). So this week we'll have to use email and phone.

Sorry in advance for this long email, but we have to do it this way for now, at least.

First, thanks for the restoration paper with costs. I think it has all the information in it we need to justify and explain the restoration that will offset the habitat losses from oil exploration and development. The most accurate way to combine the costs for the different starting habitats (grassland, shrub, etc.) is to weight each cost according to how much of it will be done. For example, if 75% of the restoration will be on grasslands and 25% on shrublands, then we take 75% of the grassland cost and 25% of the shrubland cost and add them together. However, we do not know how much of each habitat will be restored, so we'll have to make simplifying assumptions. Here's my suggestion: we consider only restoration to natural systems, not anthropogenic, because it is natural systems that have been lost and therefore those should be restored. I also suggest that we take an average of the grassland and shrub costs under the assumption that an equal amount of each will be restored (not knowing any better or different). I don't think we should include the pioneer or secondary forest systems because those systems are already much closer to providing full ecosystem services than the other 2 habitat types. If we do include pioneer or secondary forests, then we have to include in our calculations of habitat that the restoration of these systems does not provide as much increase in ecosystem services as do restorations of grassland or shrubland, since there are more services to begin with before restoration begins. And incorporating that factor into our habitat calculations is a bit complicated, especially at this late point.

Second, your analysis of the impacted hectares. Remember that we here at Stratus are doing a calculation of the areas around wells and stations that are impacted by contamination, and that you should not include those areas in your analysis. If you do, then we are double-counting those areas. The areas that are included in our analysis are all of the pits; all of the well pads; all of the land within the station boundaries; and 50% of the area of the pits at wells as a rough approximation of the additional soil area that is contaminated at each well. For these 4 areas we are calculating the amount of habitat lost and the time over which it has been lost. The time of loss starts with the start date for each well or station. For well pads and stations, we assume that the loss will continue indefinitely (since most of them will continue to operate). Pits and other areas of soil contamination are assumed to be cleaned up in 2015. I've attached a copy of our draft annex on this for you too look at so you know exactly what we're doing.

My understanding was that your analysis will calculate the habitat losses for impacts other than the contamination at wells and stations. I do not think that contamination sufficient to impact the ecology extends very far beyond the pads, pits, and spills at the wells - there simply isn't a migration pathway. There apparently was some pit flaring (burning of pits) at some of the wells, but this didn't appear to be very common, and the area affected is very difficult to estimate - and I think it quite unlikely that ecological impacts from contamination at wells extends 5 km. At stations, contamination probably extends beyond their boundaries because of the emissions from flares, and because of the discharge of produced water from stations (although current records from PetroEcuador report that nearly all of the produced water in the Concession is being reinjected). But again, the ecological impacts from flares are hard to estimate and probably aren't very great. Of course I could be wrong about this, but I haven't seen any data or information that suggests that I am.

Therefore, I do not think that your analysis should use wells as the center points of impact, since it isn't the wells themselves that are the source of the impact. Rather, it seems that the loss of habitat that you're quantifying is related more to roads and development than to the locations of wells. Therefore, you could apply your "zone" concept to roads instead of wells, with the zones being linear strips of increasing width that run parallel to roads. The roads themselves are zone 1 - clearly a complete loss of habitat. Zones 2 and 3 would then extend away from the roads, with decreasing degree of impact. Not knowing the ecology of the area, I don't know what distances to use for the strip widths. Perhaps you could get some ideas from aerial photos, or at least identify the strip of very high impact that runs alongside the roads where the vegetation is cleared for pipelines, powerlines, ditches, etc. I assume that you have a GIS layer for roads - if you don't, you could ask Tania at Selva Viva what she

has.

As for the timeline of impacts, the spreadsheet of well development dates that I sent is a good indication of the timeline of development of the field as a whole. You could use this to estimate the extent of impact in each year. For example, if 5% of the wells were installed in the first year, then 5% of the area impacted by roads could be assumed to start to be impacted that year. You noted that there are some wells in the spreadsheet without start dates - we simply don't have the data for those. For the purposes of calculating the relative amount of development that occurred each year, we can simply ignore those from the calculations. The dates listed come from a spreadsheet we got from Selva Viva that listed several dates for each well, such as start of drilling, end of drilling, start of production, etc. Not all of the dates were filled in for each well in the sheet, and some didn't make sense (like the end date of drilling would be before the start date). So we took the earliest of any of the dates for each well and used that to represent the start of "operations" at the well - probably the start of drilling, but not always.

If Pablo has given you different directions, I defer to him - only I ask that you make sure you don't include the same areas that we're covering at wells and stations. If you don't think you have enough time to do something with roads and can only work from the well locations, then I'm not sure what to say. I think it will probably be difficult to defend or explain a model of habitat loss that is based on losses radiating outward from wells for 5 km. Perhaps there's a way to use wells as proxies for the epicenters of impact, but I haven't been able to think of it.

Doug

=====

Douglas Beltman
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-----Original Message-----

From: Lorena Gamboa [mailto:lore_gamboa@yahoo.es]
Sent: Sunday, March 09, 2008 8:05 PM
To: Doug Beltman
Subject: questions

Dear Doug,

We are encountering some problems in the definition of the number of hectares by wells opened. This is because, in our model some of the zones of the wells overlap, except the zone 1 or critic zone. i.e. Each zone 1 has a total of 4,97 has.; zone 2 has a total of 73,17, zone 3 has a total of 234,42 has. If we only account for zone 1, then we will have a more accurate result but the number of hectares will be much less.

If we account the zones 2 and 3, and if the wells are close by and overlap, we may be accounting double. So the options are: either we just account for zone 1, or if you have the names of each well, we can analyze each one of them and have a more accurate number of hectares.

A question we have is if the date represents the year of exploration, or the year of exploitation of the wells.

Another problem is the 11 wells that do not have a date. Where are we going to place them?

We are hoping that you can come so that we can work these things directly as it is quite hard to do it through mail.

Did you get my paper on restoration?
I still have not worked out the spreadsheet to calculate the final numbers. Any ideas?

Regards,

Lorena

>

Enviado desde Correo Yahoo! El correo favorito de los internautas.
<http://es.docs.yahoo.com/mail/overview/index.html>

Enviado desde Correo Yahoo!
Disfruta de una bandeja de entrada más inteligente. <http://es.docs.yahoo.com/mail/overview/index.html>

EXHIBIT 11

From: Steven Donziger [sdonziger@yahoo.com]
Sent: Tuesday, September 06, 2005 12:57 AM
To: bengoldstein
Cc: aponcev; aaron; ampage; fpenafiel100; toxico
Subject: research project/Venezuela

Ben -- Pls resend that email summary to this address. Also, I have a VERY CONFIDENTIAL research project regarding Venezuela for you. The project is as follows:

Chevron has significant investments in Venezuela. The idea would be to get Chavez to exert pressure on Chevron to resolve the Ecuador matter before Chevron could make more investments in Venezuela or (ideally) in any other country where Chevron wants to invest and where Chavez has influence. Your task is to find out exactly what investments Chevron has in Venezuela, when the deals were struck, how much they are worth in dollar terms -- in short, find out as much info as you can about Chevron's activities in Venezuela so we can think about formulating a strategy. Start by looking on Chevron's website, which should have some good info. If you can, look up the topic on the website of the leading newspapers in Caracas. Try to figure out their strategy, which officials they are dealing with in Venezuela, who is their point person there, and the names of any environmental orgs there fighting against them. Then write me a memo giving this info and we can move from there.

Best,

Steven

Steven Donziger
212-570-4499 (land)
212-570-9944 (Fax)
917-566-2526 (cell)

Steven R. Donziger
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111 E. 79th St., #5
New York, New York 10021
Email: sdonziger@yahoo.com

EXHIBIT 12

From: katia fach [katiafachgomez@gmail.com]
Sent: Saturday, August 14, 2010 6:30 AM
To: Steven Donziger
Cc: Pablo Fajardo Mendoza

Hola Steven y Pablo,

Estoy ya en el hotel Quito. He llegado perfectamente, adem'as, me hicieron un upgrade e hice el vuelo en business, asi uqe el viaje ha sido muy comodo.

Un saludo

katia

EXHIBIT 13

From: Kush Shukla [kshuk22@yahoo.com]
Sent: Sunday, July 23, 2006 9:12 PM
To: Steven Donziger; aaron@ampdmf.org
Subject: Updated Fraud Memo
Attachments: Fraud_Memo_July_23.doc

See Attached

-k

Steven Donziger <sdonziger@gmail.com> wrote:

--

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<http://us.rd.yahoo.com/mail_us/taglines/postman7/*http://us.rd.yahoo.com/evt=39666/*http://messenger.yahoo.com>

EXHIBIT 14

From: Sarah Jaffe [sayjay80@gmail.com]
Sent: Friday, July 18, 2008 2:23 PM
To: Steve Donziger
Subject: update

Hi Steven-

It has come to my attention that Graham has been sending you weekly updates on his work; I figured that it might be helpful for you to have a similar update from me as well. (My apologies for not doing this sooner, if it would have been helpful for you.)

This week, I have worked on the following projects:

- Review of Amy's work on the annexes and beginning to edit her summaries
- Helping Graham with the new abuse of rights/bad faith memo (mainly reading documents we have submitted to the court here; translating/summarizing them for him)
- Compiling and reading through the information from Winston on the liability release
- Writing a summary memo of the Winston docs in Spanish (I am close to being done with this and will finish on Monday for Juampa to review; both Julio and Juampa agreed that this would be helpful.)
- Conversing w/ the communications team about Greg Palast's BBC report on the case and the approach that the Frente should take to it

And, since I haven't been sending you these regular updates, here is an overview of what I've been working on this summer:

- Cabrera report summary (2 drafts); annex A summary; supervising Amy's work on other summaries
- Due process memo (2 drafts - on hold)
- Help w/ initial research for Cat's abuse of rights memo
- Submitted notes to Julio on the exact obligations imposed on Texaco by the court in NY
- Initial stages of research on whether plaintiffs would qualify as a class in the US (project then canceled by Pablo)
- Went on toxic tour and attended 1 judicial inspection
- Helped translate scientific document from Doug into Spanish

Let me know if you have any questions about any of this.

Thanks and have a good weekend!
Sarah

EXHIBIT 15

From: Catherine Mongeon [catmongeon@gmail.com]
Sent: Monday, July 07, 2008 6:10 PM
To: Steven Donziger
Cc: Sarah Jaffe; Graham Erion; Julio Prieto
Subject: Re: your memo
Attachments: follow up.doc

Hi Steven,

Attached is a memo with my follow up; I've also pasted my answers below in case that is easier for you.

Please let me know where you'd like me to first focus my research (on estoppel, good faith or more abuse of rights? and in CA, Ecuador or international law?) and I will begin looking for more helpful cases tomorrow.

Best,
Catherine

1) Has this claim ever been used in private litigation between two private parties? Is the academic literature focused solely on litigations between states or between a state and a private party?

The academic literature that I have found is focused on establishing abuse of rights as a principle of international law and has illustrated that predominately through examples of litigation and arbitrations between states. There are examples of abuse of rights being used in private litigation between two private parties in jurisdictions where abuse of rights is codified (Louisiana specifically is where I have come across cases; I'm sure there are cases in the other civil law systems that have codified the principle, but I didn't bother to research those). I don't believe that this claim has ever been used in U.S. court (outside of Louisiana) or within Ecuador. I have found one international example, where two separate subsidiaries signed a contract with a state-owned energy company in Indonesia and abuse of rights was used to limit the damages.

(the cases are nearly identical, and the outcomes are the same).

Patuha Power Ltd. (Bermuda) v. PT. (Persero) Perusahaan Listrik Negara (Indonesia), 14 Mealey's Int'l Arb. Rep. B-1, B-44 (1999).

Himpurna Cal. Energy Ltd. (Bermuda) v. PT. (Persero) Perusahaan Listrik Negara (Indonesia), 14 Mealey's Int'l Arb. Rep. A-1, A-53 (Dec. 1999)

I will look for more examples tomorrow.

2) Has it ever been used successfully to win a case, or has it been one reason among others cited to win a case?

So far, in every case I have looked at, abuse of rights has been one reason of many. It's usually listed along side other overlapping/similar claims such as good faith. However, in one case it was listed as the sole reason for a damages reduction. Patuha Power Ltd. (Bermuda) v. PT. (Persero) Perusahaan Listrik Negara (Indonesia), 14 Mealey's Int'l Arb. Rep. B-1, B-44 (1999).

3) Why do you say it would better be used in an international venue... rather than a U.S. (or I assume domestic) court? Because there are other common law remedies available, such as estoppel?

In a U.S. court, I cannot find any case law (outside of Louisiana where abuse of rights is written into its civil code) where abuse of rights was used as a successful argument. Although some academics (see e.g. Perillo) argue that it should be employed more within the US to fill in important gaps in the law, there is no apparent case law supporting this position. The term is infrequently used in the context of property rights, but as far as I can tell, never in the context that we would be trying to apply it. Because it is not a widely accepted legal principle in the U.S., I imagine that the

7/7/2008

DONZ-HDD-0185451

more recognized legal remedies available, such as estoppel and good faith, would probably be much stronger claims. Adding abuse of rights may seem redundant.

4) Does an abuse of rights claim conflate with estoppel?

As far as I can tell, in international law abuse of rights, being as broad as it is, seems to include the principle of estoppel within it.

5) Procedurally, can we bring an estoppel/abuse of rights claim at the trial level in Ecuador against Chevron? How?

After speaking with Julio, he told me that they have submitted documents to the court already that have specifically talked about estoppel, bad faith and abuse of rights. Abuse of rights, while it isn't codified as Ecuadorian law, has been relied on as a doctrine. They have already alleged that Chevron is arguing inconsistent positions in different courts and in using bad faith by praising Ecuador's court system from the US and attacking it while in Ecuador. Obviously, the judge will not address any of these documents until the very end of the case when he issues a ruling.

As far as adding any of the above as separate claims, or filing them independently, Julio says that these are not independent actions in Ecuador and therefore this could not be done.

6) Send me the best law review/academic articles on the topic... do u have copies of decisions in those cases u cite?

I don't have any copies of decisions – since they were all state-to-state I didn't try to look them up, but I will if you think any (or all) of them could be helpful. Please let me know.

On Sun, Jul 6, 2008 at 4:08 PM, Steven Donziger <sdonziger@gmail.com> wrote:

Cat,

Thanks for the memo. Excellent overview. A couple of thoughts:

1) Has this claim ever been used in private litigation between two private parties? Is the academic literature focused solely on litigations between states or between a state and a private party?

2) Has it ever been used successfully to win a case, or has it been one reason among others cited to win a case?

3) Why do u say it would better be used in an international venue... rather than a U.S. (or I assume domestic) court? Because there are other common law remedies available, such as estoppel?

4) Does an abuse of rights claim conflate with estoppel?

5) Procedurally, can we bring an estoppel/abuse of rights claim at the trial level in Ecuador against Chevron? How?

6) Send me the best law review/academic articles on the topic... do u have copies of decisions in those cases u cite?

Please answer these questions to the best of your ability by end of day Monday.

This an extremely important exercise with practical implications, and I want to share with the team on Wed when I get there.

Hope u guys had a good weekend.

Steven

7/7/2008

DONZ-HDD-0185452

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New York, New York 10025
Email: sdonziger@gmail.com

--

Catherine Mongeon
J.D. Candidate 2010
Boalt Hall
UC Berkeley, School of Law

EXHIBIT 16

From: Juan Pablo Sáenz [juanpasaenz@hotmail.com]
Sent: Wednesday, June 18, 2008 10:33 AM
To: Sarah; Catherine Mongeon; Graham; Pablo Fajardo 1; julprietto@hotmail.com;
<wilsonaguinda@gmail.com>
Cc: Steven Dozinger
Subject: Tareas pasantes
Attachments: Tareas_Pasantes_2008.xls

Compañeros, la última versión de la tabla con las tareas de los ilustres pasantes 2008. Evidentemente, ya vendrán más cosas.

Comentarios, bienvenidos.

Juan Pablo Sáenz M.
Frente de Defensa de la Amazonía

.....
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EXHIBIT 17

From: Steven Donziger [sdonziger@gmail.com]
Sent: Friday, February 16, 2007 1:40 PM
To: Cortelyou Kenney; Dan Firger
Cc: Sara Colon
Subject: update on Ecuador
Attachments: shareholder update.feb16.2.doc

Cort, Dan, and Sara --

Attached is a memo I just sent out to a few shareholders of Chevron that gives my view of the situation in Ecuador as it currently stands.

One additional, quick research need -- what investments does Chevron have and what investment opportunities does Chevron have in Latin America, starting with Venezuela and Bolivia, but also other countries? We need to see where they are most politically vulnerable to pressure in other countries. Can someone help? It does not have to be exhaustive or legal in nature -- basically, I am looking just for a thumbnail sketch.

Don't feel obligated, as I know you are all busy. But if there is somebody out there who can do that for, I would certainly appreciate it.

Thanks, SRD

--

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Email: sdonziger@gmail.com

EXHIBIT 18

From: Farihah Zaman [farihahzaman@gmail.com]
Sent: Monday, March 03, 2008 7:34 PM
To: Steven Donziger
Subject: DeLeon Account Documents
Attachments: DeLeon_Account_03-03-08.cumulative.xls; Post_1-24_DeLeon_Account_03-03-08.recent.xls

EXHIBIT 19

From: Steven Donziger [sdonziger@gmail.com]
Sent: Sunday, July 27, 2008 11:38 PM
To: Jeremy Low; Courtney Wong
Subject: items for Monday

send materials to WSJ reporter -- get address for Tom McGinty
buy LAN plane tix
do expenses from last trip
general review of expenses pending (Cara consult)
find accountant
solve email problem with new blackberry
review systems memo w SRD
explore Vonage as phone system
PDF Newsweek article
send in IETSI materials

--

Steven Donziger
212-570-4499 (land)
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Email: sdonziger@gmail.com

7/27/2008

DONZ-HDD-0189180

EXHIBIT 20

From: Steven Donziger [sdonziger@gmail.com]
Sent: Tuesday, July 15, 2008 6:07 PM
To: Courtney Wong
Subject: Fwd: NEED a spanish-english legal dictionary!!!

----- Forwarded message -----

From: **Graham Erion** <grahamrocks@gmail.com>
Date: Jul 15, 2008 6:04 PM
Subject: NEED a spanish-english legal dictionary!!!
To: Steve Donziger <sdonziger@gmail.com>

Steven,

Here is the link to the dictionary that is desperately needed in this office:

http://www.amazon.ca/McGraw-Hills-Spanish-English-Legal-Dictionary/dp/0071415297/ref=sr_1_1?ie=UTF8&s=books&qid=1216159183&sr=8-1

Thanks.

See you next week.

g.

--

Steven Donziger
212-570-4499 (land)
212-570-9944 (fax)
917-566-2526 (cell)

Steven R. Donziger
Law Offices of Steven R. Donziger, P.C.
245 W. 104th St., #7D
New York, New York 10025
Email: sdonziger@gmail.com

EXHIBIT 21



Re: Status of CVX resolution

Shelley Alpern, Simon Billenness
Maria Ramos to: Bennett.Freeman@Calvert.com,
pdoherty@osc.state.ny.us, Mitch Anderson

04/05/2010 01:15 PM

Folks

Below is the original WSJ story, and below that is a WSJ blog that accompanied the story. The firm that deposed the plaintiff's scientist - Gibson and Dunn -- are oily characters, with a record of intimidation, corruption and concocting stories.

The timing of all of this is also incredibly suspect...

Shelley - can you circulate the latest resolution language?

And in the spirit of trying to "wrest as much as we can from this weakening hand" -- we had discussed needing to frame this as a victory and pulling in Ecuador -- is Jim onboard with doing media round this?

As always, thanks so much Shelley for your work on this!

-maria

BUSINESS | APRIL 5, 2010

Chevron Suit Data Questioned

U.S. Scientist Says He Didn't Write Reports Attributed to Him on Pollution in the Rain Forest

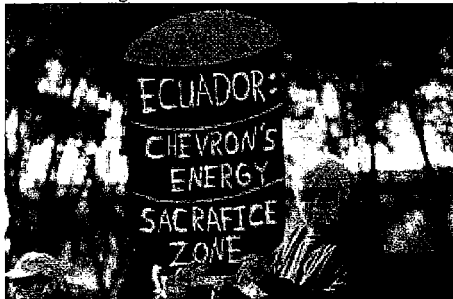
By BEN CASSELMAN And ANGEL GONZALEZ

http://online.wsj.com/article_email/SB10001424052702303912104575164210793874400-1MyQjAxMTAwMDAwNDEwNDQyWj.html

An American scientist who provided key evidence against Chevron Corp. in a multibillion-dollar environmental lawsuit now says he didn't write reports attributed to him that found high levels of pollution in the Ecuadorean rain forest.

In fact, the scientist, Charles Calmbacher, said that although he found some contamination at the sites he examined, it was not as serious as the reports indicated.

[View Full Image](#)



protester holding a sign in front of Chevron headquarters in San Ramon, Calif., during the oil company's annual shareholders meeting last May.

Reuters





The scientist's new claims, made in a deposition released by Chevron, are the latest twist in a long-running and complex legal battle.

Natives of Ecuador's oil-producing Amazon region have sued Chevron for environmental damage they say was caused by Texaco Inc. in the 1970s and 1980s. Chevron, which bought Texaco in 2001, denies the claims.

In 2004, the plaintiffs hired Mr. Calmbacher, a Georgia-based biologist and environmental scientist, to help oversee soil and water tests in Ecuador.

Reports signed by Mr. Calmbacher, which were submitted to an Ecuadorean court in 2005, showed high levels of toxins at two sites and estimated the contamination would cost more than \$40 million to clean up at these sites alone.

His findings were among the evidence used by a court-appointed expert who in 2008 estimated Chevron's liability in the case at more than \$27 billion.

But in a sworn deposition last week, Mr. Calmbacher said he didn't write the reports submitted over his signature, which said the sites were highly polluted and needed remediation.

While he did find some evidence of contamination, Mr. Calmbacher said, he didn't determine more remediation was necessary and didn't calculate clean-up costs.

"I concluded that I did not see significant contamination that posed immediate threat to the environment or to humans or wildlife around it," Mr. Calmbacher said, according to a transcript provided by Chevron.

Mr. Calmbacher didn't respond to messages left at his home and office Friday and Sunday.

Steven Donziger, a New York-based attorney for the plaintiffs, said Mr. Calmbacher's reports were only a small part of the overall case, and that other tests have shown contamination at dozens of sites.

"There's a substantial amount of evidence that shows these sites are highly contaminated," Mr. Donziger said. "I think the real focus of this trial is who's responsible."

Chevron's decision to release Mr. Calmbacher's testimony appears to be part of a strategy by the company to call into question the legitimacy of the trial in Ecuador, which Chevron has argued in court papers and public statements has been tainted by interference from the executive branch.

Representatives of Ecuador's government have denied interference.

The company has said it expects to lose the case in Ecuador but plans to challenge enforcement of any ruling in the U.S., where it is the second-largest oil company by revenue.

In the deposition, Mr. Calmbacher said the plaintiffs stopped paying his bills in late 2004 and eventually dismissed him from the case.

Last month, lawyers for Chevron sought permission from a U.S. federal court judge in Atlanta to

interview Mr. Calmbacher because they had doubts about the reports' authenticity.

Andrea Neuman, the Chevron lawyer who conducted the deposition, said Chevron became suspicious after Mr. Calmbacher apparently misspelled his own name in letters to the Ecuadorean court asking for an extension in filing his reports.

In his deposition, Mr. Calmbacher said he had flown back to the U.S. early due to illness, and had therefore sent pre-signed pages back to Ecuador with the understanding his findings would be printed over his signature. But he said the reports that were filed didn't reflect his conclusions.

He said he never saw the final version of the reports that were submitted to the court until he was shown them during the deposition.

"I did not reach these conclusions and I did not write this report," he said in the deposition, which does not address the underlying data.

Ms. Neuman, the Chevron lawyer, said Mr. Calmbacher's claim could be evidence of fraud by the plaintiffs.

"This is a completely fabricated report with completely fabricated conclusions," she said.

In a written statement on Sunday, Karen Hinton, a spokeswoman for the plaintiffs, called Mr. Calmbacher's claims "bewildering" and said he had never previously objected to the reports, which she said were based on tests conducted by independent laboratories.

Moreover, she said, Chevron's own tests at the sites showed contamination, even after Texaco cleaned up the sites in the 1990s. Chevron disputes this.

Chevron said it will file Mr. Calmbacher's testimony in the Ecuadorean court this week.

The company said it has already submitted the deposition to an international arbitration panel that is hearing a related suit filed by Chevron against the government of Ecuador over the government's handling of the environmental dispute.

Write to Ben Casselman at ben.casselmann@wsj.com and Angel Gonzalez at angel.gonzalez@dowjones.com

WSJ blog accompaniment to earlier story:

<http://blogs.wsj.com/law/2010/04/05/misspelling-leads-to-big-discovery-in-chevronecuador-case>

/

THE WALL STREET JOURNAL

WSJ.com

April 5, 2010, 11:35 AM ET

Misspelling Leads to Big Discovery in Chevron/Ecuador Case

Note to expert witnesses: If someone else is going to file allegedly fraudulent reports in a lawsuit in your name, for heaven's sake, make sure they spell your name right.



It might sound like common sense. But the misspelling of an expert's name in a multibillion-dollar environmental lawsuit filed against Chevron is what tipped off Chevron's lawyers to the fact that the reports may have been fudged, a fact that has now been conceded by

the expert himself. Click [here](#) for the WSJ story, by Ben Casselman and Angel Gonzalez. Click [here](#), [here](#) and [here](#) for earlier LB posts on the Chevron case.

The disclosure comes in the midst of a huge lawsuit accusing Chevron of causing widespread environmental damage in the Ecuadorean rain forest. In 2004, the plaintiffs hired an American biologist named Charles Calmbacher to help oversee soil and water tests in Ecuador.

Reports signed by Calmbacher showed high levels of toxins at two sites and estimated the contamination would cost more than \$40 million to clean up at these sites alone.

But in a sworn deposition last week, Calmbacher said he didn't write the reports submitted over his signature, which said the sites were highly polluted and needed remediation.

"I concluded that I did not see significant contamination that posed immediate threat to the environment or to humans or wildlife around it," Calmbacher said, according to a transcript provided by Chevron.

Steven Donziger, a New York-based attorney for the plaintiffs said Calmbacher's reports were only a small part of the overall case, and that other tests have shown contamination at dozens of sites. (Click [here](#) for a story about Donziger and the case published last September, from the American Lawyer.)

Chevron has said it expects to lose the case in Ecuador but plans to challenge enforcement of any ruling in the U.S., where it is the second-largest oil company by revenue.

Now, back to the allegedly forged signature. Gibson Dunn's [Andrea Neuman](#), the Chevron lawyer who conducted the deposition, said Chevron became suspicious after Calmbacher apparently misspelled his own name in letters to the Ecuadorean court asking for an extension in filing his reports.

In his deposition, Calmbacher said he had flown back to the U.S. early due to illness, and had therefore sent pre-signed pages back to Ecuador with the understanding his findings would be printed over his signature. But he said the reports that were filed didn't reflect his conclusions.

He said he never saw the final version of the reports that were submitted to the court until he was shown them during the deposition.

"I did not reach these conclusions and I did not write this report," he said in the deposition.

On Apr 5, 2010, at 9:46 AM, Simon Billenness wrote:

Shelley:

Would you circulate the text of that WSJ article? I could only read the first paragraph since the rest of the article is behind the pay wall. First paragraph looks pretty bad for us. What is the response from Donziger?

I appreciate what you and Jim are doing to wrest as much as you can from this weakening hand. With regard to Amnesty, we co-filed the resolution with the intention of Trillium as the lead. We are willing to withdraw our filing in coordination with you, if you advise it.

~Simon

On Mon, Apr 5, 2010 at 12:35 PM, Shelley Alpern <salpern@trilliuminvest.com> wrote:
Greetings,

As you know, Jim Williamson of PA's been negotiating with Chevron to try to get them to incorporate "environmental sustainability and management expertise" as one of the criteria they'll look for in board candidates. They have agreed to do that. PA thinks they've made enough to withdraw. The other critical paragraph that CVX's agreed to endorse is this one:

"In addition, in compliance with the new rules of the Securities and Exchange Commission, the company will disclose the qualifications and experience of each director that led to the director's nomination to the Board. The Board strives to ensure that all of the Board membership qualifications are represented by one or more directors and, to the extent a qualification is not represented on the Board, the Board strives to identify and nominate candidates with such qualifications."

Jim has agreed to go back to them to urge them to add language to the last sentence saying the Board will report **to shareholders** on the efforts it is making to ensure that all the qualifications are being met. This would build in some accountability; otherwise it's just an aspirational sentence. Let's hope he's successful because they are prepared to withdraw either way; he's pushing for the edited phrase out of respect for our long history with Chevron, not because he thinks it's absolutely needed to make progress. And when they do withdraw, we'll be hard pressed to keep it on the ballot. I think that losing both NYC and PA would give us about a 0% chance of an endorsement from RiskMetrics, and would be interpreted as NYC and PA judging that our position is unreasonable.

In other news, check out the bad news in today's WSJ, p. B3. Doesn't strengthen our hand.

Best,

SA

Shelley Alpern
Director of Social Research & Advocacy
Trillium Asset Management Corporation
711 Atlantic Avenue

Boston, MA 02111
(617) 423-6655, x 248
<http://www.trilliuminvest.com>

EXHIBIT 22

From: M^a Guadalupe De Heredia [lupitadeheredia@gmail.com]
Sent: Tuesday, October 16, 2007 2:29 PM
To: Steven Donziger
Subject: Volunteers are here

Steven,
The law students from Colorado are here, i told them to translate the "panfleto" and they are coming back this afternoon around 3 o'clock when Joseph is going to be here.
I want to work out with them and Joseph a plan for international organisations in the US to let them know about us.
Please let me know if you have more things for them to do till you come here.
LDH

--
M^a Guadalupe De Heredia
Tel. 59399707-369
Quito- Ecuador

10/16/2007

DONZ-HDD-0131188

EXHIBIT 23

From: Mitchell Anderson [hueyzactlan@gmail.com] on behalf of Mitch Anderson [mitch@amazonwatch.org]
Sent: Wednesday, April 01, 2009 1:41 PM
To: Andrew Woods
Cc: 'Steven Donziger Donziger'
Subject: Re: RE:

Hi Andrew,
Yes, the Memorandum Regarding Chevron's Failure to Adequately Disclose Ecuador Liability.
thanks brother,
Mitch

On Apr 1, 2009, at 10:09 AM, Andrew Woods wrote:

Which memorandum are you looking for? The failure to disclose document?

From: Mitchell Anderson [mailto:hueyzactlan@gmail.com] **On Behalf Of** Mitch Anderson
Sent: Wednesday, April 01, 2009 1:08 PM
To: Andrew Woods
Cc: Steven Donziger Donziger
Subject:

Andrew,
I just talked with Steven, will you please send via overnight mail, the Chevron Memorandum (March 28, 2009) with annexes. Our address is 221 Pine St. 4th Floor. SF, ca 94104
Also, let's talk today over the phone. Lots to coordinate on.
best,
Mitch

~~~~~  
Mitchell Anderson  
Corporate Accountability Campaigner

Amazon Watch  
One Hallidie Plaza Suite 402  
San Francisco, CA 94102  
Tel: 415-487-9600, ext. 26  
Cel: 415-342-4783  
mitch@amazonwatch.org

# EXHIBIT 24

**From:** John Rodgers [rodgers.john@gmail.com]  
**Sent:** Friday, August 31, 2007 2:18 AM  
**To:** Steven Donziger  
**Subject:** Re: data base

yes, wait for full deal. interim delivery would be waste of time.  
I'll be in touch very soon...

On 8/30/07, Steven Donziger <sdonziger@gmail.com> wrote:

> ok sounds good... i am leaving on monday... but maybe i should just  
> wait for the integrated package

>  
>

> On 8/30/07, John Rodgers <rodgers.john@gmail.com> wrote:

>> this is the best I can do: I can get you the DB with the Tex data  
>> in raw form you can take to Ec - tell me my latest deadline for  
>> your departure or arrival. that way you can accurately tell  
>> everyone there that you have the Tex data in hand. and if there is  
>> anyone who can use/assess raw data, they'll have it. ("raw" means  
>> clean QCD usable data that we've already done huge amounts of work  
>> to - its just not fully "packaged")

>>  
>> then, realistically, I'll be able to deliver the integrated packaged  
>> product next week for sure for sure - no matter what it takes. (it  
>> will take several days of uninterrupted crank time, and I wont have  
>> that til Monday).

>>  
>>  
>>

>> On 8/30/07, Steven Donziger <sdonziger@gmail.com> wrote:

>>> don't worry too much... the guy who wrote that is not a serious  
>>> academic type. so does this mean no data base by this weekend? i  
>>> am heading

> down to  
>> quite on monday... when realistically do u think it will be done?  
> thanks,  
>>> srd

>>>  
>>>

>>> On 8/30/07, John Rodgers <rodgers.john@gmail.com> wrote:

>>>> No, does not make sense to me. Just re-checked the DB and  
>>>> confirmed his observation is not accurate. If he can explain  
>>>> more clearly exactly what he is looking at, I can further  
>>>> confirm/clarify. It is always possible that I am wrong  
>>>> somewhere, but I am not seeing it. If you click on any of the  
>>>> "Excesos..." buttons, it is easy to verify the division (not subtraction)  
yourself.

>>>>

>>>> I suspect he may be looking not at the original DB we sent, but  
>>>> some secondary manifestation of it. Possible? Have I given you  
>>>> my "change control" lecture lately? Change control is perhaps  
>>>> the most critical thing to get right with data, especially in a  
>>>> litigation case. It is also one of the most subtle,  
>>>> underestimated, and challenging. I can try to help you with this moving forward.

>>>>  
>>>> Meanwhile, I am trying to get the DB to you as fast as possible.  
>>>> Bad news is that I remain totally slammed right now as my  
>>>> current project comes to a head this week. Good news is that I  
>>>> become wide open starting Monday, and will dedicate myself to

>>>> this and be back to you with finished product and availability  
>>>> for orientation, questions, etc.  
>>>>  
>>>>  
>>>> On 8/29/07, Steven Donziger <sdonziger@gmail.com> wrote:  
>>>>> John,  
>>>>>  
>>>>> Does this make sense to you? A guy looked at your data base  
>>>>> and  
> wrote  
>>>> me  
>>>>> this. Also, pls be sure to send the data base to ann maest  
>>>>> and doug  
>>>>> beltman  
>>>>> at Straus pls. Tks,  
>>>>>  
>>>>> SRD  
>>>>>  
>>>>> ----- Forwarded message -----  
>>>>> From: Charles Champ <champcwl@yahoo.com>  
>>>>> Date: Aug 29, 2007 9:06 AM  
>>>>> Subject: Data Base  
>>>>> To: Steven Donziger <sdonziger@gmail.com>  
>>>>>  
>>>>> Steven,  
>>>>>  
>>>>> It appears that the 'standard' column has been subtracted from  
>>>>> the 'contamination' column, rather than, dividing the  
>>>>> 'standard' column into the 'contamination' column which would  
>>>>> then yield a multiple (times - veces). Then, if a  
>>>>> mathematical formulat is written for this in xl, the  
>>>>> 'standard' can be changed to U.S. EPA and the resultant column  
>>>>> would then be a times amount.  
>>>>>  
>>>>> The easy way to produce U.S. EPA comparisons, after correcting  
>>>>> the current data and writing mathematical formulas - copy the  
>>>>> files and label U.S. EPA and change the 'standard' column  
>>>>> amount - the resultant should show the relationship compared  
>>>>> to the U.S. EPA standard.  
>>>>>  
>>>>> Charlie  
>>>>>  
>>>>> --  
>>>>> Steven Donziger  
>>>>> 212-570-4499 (land)  
>>>>> 212-570-9944 (fax)  
>>>>> 917-566-2526 (cell)  
>>>>>  
>>>>> Steven R. Donziger  
>>>>> Law Offices of Steven R. Donziger, P.C.  
>>>>> 245 W. 104th St., #7D  
>>>>> New York, New York 10025  
>>>>> Email: sdonziger@gmail.com  
>>>>>  
>>>>  
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>>>>  
>>>> Steven Donziger  
>>>> 212-570-4499 (land)  
>>>> 212-570-9944 (fax)  
>>>> 917-566-2526 (cell)  
>>>>

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> New York, New York 10025  
> Email: sdonziger@gmail.com



# EXHIBIT 25

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**From:** Ilann M. Maazel [imaazel@ecbalaw.com]  
**Sent:** Wednesday, April 21, 2010 11:44 AM  
**To:** <sdonziger@donzigerandassociates.com>; Laura Belanger;  
<awoods@donzigerandassociates.com>  
**Subject:** Do we have, or can we get,

an affidavit from Pablo or someone with knowledge in Ecuador concerning the current status of the Ecuador case, e.g.:

- discovery phase is over (and when it was over)
- a few expert reports are being filed
- Allegato, which are [pretrial briefs?, how would we describe it?] are to be filed shortly

Can we do this by *tomorrow*?

Ilann M. Maazel  
Emery Celli Brinckerhoff & Abady LLP  
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New York, NY 10019  
phone: 212-763-5000  
fax: 212-763-5001  
[imaazel@ecbalaw.com](mailto:imaazel@ecbalaw.com)  
[www.ecbalaw.com](http://www.ecbalaw.com)

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