

# RESPONSE TO CHEVRON'S MYTHS ABOUT THE CABRERA REPORT

*Amazon Defense Coalition/February 10, 2010*

- **Chevron Myth:** The Amazon Defense Front, the named financial beneficiary of the lawsuit, directly paid Dr. Cabrera for his work.
  - **Fact:** Ecuador's courts require the parties to equally fund expenses for court-appointed experts. The Amazon Defense Coalition (ADC) has never made *any* payments to Dr. Cabrera beyond what has been required under Ecuadorian procedural rules to satisfy the costs of the trial. Under the same rules, Chevron also paid Dr. Cabrera and other experts during the trial.
- **Chevron Myth:** Sections of Dr. Cabrera's \$27 billion claim are copied word-for-word from documents written by Amazon Defense Front lawyers.
  - **Fact:** The Cabrera report is an independent review and assessment of the voluminous evidence in the case. Some small analyses provided by the parties through regular court procedures were adopted by Dr. Cabrera after his own independent assessment determined they were technically sound and consistent with the evidence. This process is entirely proper, routine, and consistent with the practice of judges and experts in the United States and other countries. Dr. Cabrera relied heavily on Chevron's own evidence, including analyses written by its experts, in reaching his conclusions.
- **Chevron Myth:** Photographs and video show representatives of the Amazon Defense Front conducting Dr. Cabrera's field work as well as preparing soil and water samples for Cabrera.
  - **Fact:** Representatives of the ADC never conducted Dr. Cabrera's field work or prepared samples for him. During the course of Dr. Cabrera's site assessments both sides were allowed to observe his work and suggest places for his team to sample for evidence of contamination. Chevron insisted he take samples hundreds of meters away from the pits, where it was likely no contamination would be found. When Dr. Cabrera resisted this suggestion, Chevron accused him of bias.
- **Chevron Myth:** Nearly 90 percent of Dr. Cabrera's \$27 billion figure is allocated to issues that he was not directed to examine.
  - **Fact:** Dr. Cabrera's team was charged with determining the cost of remediating the entirety of the damage caused in the area where Chevron formerly operated. His mandate from the court was followed precisely.
- **Chevron Myth:** Dr. Cabrera assessed more than \$9 billion as compensation for cancer deaths without providing any medical evidence or even the name of a single alleged victim.
  - **Fact:** The methodology used by Dr. Cabrera is widely accepted in courts and is used by the U.S. Environmental Protection Agency for estimating the value of a lost life due to contamination. Dr. Cabrera relied on internationally accepted survey methodology and peer-reviewed epidemiological studies to estimate the impact on human health caused by the contamination. This included an estimate of additional cancer deaths caused by exposures to hydrocarbons left by Chevron. Numerous witnesses, whose names are part of the court record, testified about their cancers and other oil-related illnesses.
- **Chevron Myth:** Dr. Cabrera recommends Chevron pay more than \$8.4 billion for what he deems "unjust enrichment," despite the fact that Texaco Petroleum earned less than \$500 million in profits during the life of the consortium.

- **Fact:** Dr. Cabrera’s “unjust enrichment” analysis calculated how much additional profit Chevron earned by using substandard operational practices in Ecuador. Chevron deceptively claims it earned profits of \$500 million by only counting the balance sheet of Texaco Petroleum, its fourth-tier subsidiary. Economic experts have estimated that Chevron’s actual cumulative profit, due to the vertically integrated nature of the business, was \$25 billion to \$30 billion over 26 years of operation. Ecuadorian law, like U.S. law, allows the court wide discretion in assessing damages and supports “unjust enrichment” as a damages category.
- **Chevron Myth:** Dr. Cabrera assessed \$3.2 billion for groundwater remediation and \$428 million to improve potable water systems even though he did not take any samples of streams, rivers, municipal water sources or drinking water wells, and states in his own report that he did not have enough data to develop a groundwater remediation plan.
  - **Fact:** Of the 62,000 scientific sampling results provided at trial, more than 52,000 of them were provided by Chevron. Dr. Cabrera relied on numerous water samples provided by Chevron and the plaintiffs, as well as independent studies, that prove groundwater and surface waters were contaminated by Chevron’s operations. Dr. Cabrera’s assessment of the costs associated with a system of potable water for the Amazon is consistent with the costs of water systems in similar rural areas around the world. Access to clean water is a critical issue in Ecuador’s Amazon given that oil-laced water is the primary source of the region’s health problems.
- **Chevron Myth:** Dr. Cabrera recommends more than \$2.7 billion dollars for pit remediation, averaging more than \$3 million per pit. This figure is vastly inflated compared to the \$85,000 per-pit actual cost for Petroecuador’s recent remediation work.
  - **Fact:** Dr. Cabrera’s assessment of the cost of remediating the pits is based on relevant Ecuadorian and U.S. standards for remediation of oil contamination; Petroecuador’s atrociously lax clean-up norms are irrelevant. Chevron’s costs are based on running dirt over the pits without cleaning them out of toxins – essentially a sham remediation which already earned two Chevron lawyers a criminal indictment for engaging in the practice in the 1990s.
- **Chevron Myth:** Dr. Cabrera claims \$1.7 billion in damages for oil infrastructure sites that have been in constant use by Petroecuador for nearly two decades and substantially expanded by Petroecuador since Chevron’s departure in 1992.
  - **Fact:** Dr. Cabrera’s assessment of damages associated with oil infrastructure improvements is based on the costs associated with upgrading the system that Chevron designed, built, and abandoned. It does *not* include upgrading any installations built by Petroecuador. Chevron was legally and ethically required to use a system that was consistent with industry standards, but it chose to use a flawed system designed to pollute rather than re-inject waste water into the ground. Chevron is still responsible for the costs of upgrading that system consistent with its legal obligations at the time it operated in Ecuador.
- **Chevron Myth:** Dr. Cabrera assessed more than \$1 billion in soil remediation for sites he never visited.
  - **Fact:** Dr. Cabrera’s assessment relied upon the entirety of the evidence presented at trial, including the tens of thousands of chemical sampling results which Chevron provided to the court. His assessment of costs for soil remediation is based on a review of the entire evidentiary record, including evidence for sites that Cabrera did not inspect personally.