

ASAMBLEA DE AFECTADOS POR TEXACO
Frente de Defensa de la Amazonia
Región Amazónica-Ecuador

April 16, 2008

By Facsimile and Certified Mail

Mr. David O'Reilly
CEO and Chairman of the Board
Chevron Corporation
San Ramon, California

Dear Mr. O'Reilly:

We write on behalf of thousands of Amazonian residents of Ecuador to correct distortions that your company's General Counsel and public relations representatives have published in response to the Goldman Foundation's decision to honor us for our work to protect the environment in Ecuador.

Statements by Chevron's team that are based on a reasonable interpretation of the evidence in the Ecuador environmental trial (*Aguinda v. ChevronTexaco*) are of course an important part of the natural give and take of litigation. However, Chevron's assertions that use false information to hide the likelihood of a massive potential liability from shareholders, and which put us and others leading the lawsuit at even greater personal risk of harm, cross the line that separates healthy debate from outright misinformation. You must know that crossing this line creates further legal and reputational risk to Chevron beyond the company's potential liability in Ecuador for environmental damage.

We believe this line was crossed in Chevron's paid advertisement and the op-ed published by your General Counsel, Charles James, both of which appeared on April 15 in the *San Francisco Chronicle*. The factual distortions and misinformation in those materials are as follows:

Chevron distortion: The Aguinda lawsuit and similar claims in San Francisco were dismissed by a U.S. court. Your claim in both the paid advertisement and the op-ed signed by Mr. James is false. As a former Assistant Attorney General of the United States and a sophisticated lawyer, Mr. James must surely know he is falsifying information. The *Aguinda* matter has never been dismissed by any court. It was sent to Ecuador in 2001 by a U.S. judge at Chevron's request because the U.S. court accepted Chevron's argument that Ecuadorian courts were transparent and impartial. As a condition of this removal, Chevron consented to jurisdiction in Ecuador. Only recently, when the evidence in the Ecuador trial began to clearly point to Chevron as being responsible for the contamination, and when it became clear that Chevron itself was

proving the existence of extensive contamination at its former sites, did your company launch a misinformation campaign that claimed the trial was unfair. In reality, the Ecuador court has bent over backwards to extend due process protections to Chevron not available to a typical defendant in Ecuador. The San Francisco court case referenced had no connection to the *Aguinda* case and never involved anybody we represent; the lawyer in that case has no ties to the current litigation in Ecuador. Again, Mr. James and your public relations representatives are falsifying information by trying to conflate the claims in the dismissed case with our own, when in fact they are completely different.

Chevron distortion: **We remediated the damage and were released by the government.** Again, Mr. James completely misses the target. Chevron paid less than \$30 million for a limited, cosmetic clean up of a small portion of the total number of waste pits in Ecuador; the court expert estimates damages between \$7 billion and \$16 billion. By any reasonable standard, Chevron paid to remediate less than 1% of the actual damage caused by its operation of the consortium. In its remediation plan, Chevron excluded most of the pits, the soils around all of the pits, groundwater contamination under and near the pits, health and economic impacts, impacts to indigenous culture, and infrastructure problems that continue to produce contamination from the oil production system Chevron installed. Your company also never once, in its long period of operation in Ecuador, conducted a study to determine the environmental impacts of its operations despite the obvious contamination it was causing. The release Chevron received from the Ecuadorian government did not apply to the claims that in the *Aguinda* case, which at the time was already pending in a New York court. Those claims and all others held by private citizens were clearly carved out in the plain language of the release. Yet Chevron falsifies the scope of its limited release to try to convince the public that it applies to *all* claims, when in fact it applies only to claims the government could bring. Further, the court expert found that Chevron's so-called remediation had no impact – trial results demonstrate there is simply no difference in the levels of toxins found at Chevron sites that were remediated compared to those that were not. As a result, Ecuador's government has filed a fraud against Chevron with the U.S. Department of Justice, raising the possibility Chevron used deception to secure the limited release.

Chevron distortion: **The contamination where we operated in Ecuador is not our responsibility.** We appreciate that the trial court, not Chevron, will resolve this issue. But it bears mention that Chevron's predecessor company, Texaco (now Chevron), was for 26 years the exclusive operator of a consortium that built 356 wells and 22 production stations in Ecuador's Amazon in an area roughly the size of Rhode Island. Chevron built this system with greater concern for its production costs than for the value of human life, indigenous culture, and the preservation of the rainforest ecosystem. Chevron had admitted at trial that it dumped on a daily basis millions of gallons of toxic waste water into the Amazon instead of re-injecting into wells, which had been the customary oil industry practice for decades before Chevron entered Ecuador. In addition, Chevron gouged roughly 1,000 waste pits out of Ecuador's jungle floor and filled them with toxic and carcinogenic drilling muds and sludge. These contaminated pits, some the size of football fields, still leech toxic substances into the soil and groundwater and decades later their grotesque forms are visible to anybody who visits the region. Chevron

knew that the state-owned oil company that inherited this flawed production system would continue to use it, yet Chevron never invested the capital to upgrade the system before leaving Ecuador in 1992. Therefore, Chevron continues to bear responsibility not only for the contamination it caused, but also for the contamination others have caused using the same negligent system Chevron designed, built, and operated knowing it violated legal standards. That said, base communities in the Amazon work closely with the existing oil company in Ecuador to deal with underlying problems left by Chevron – but that does not alter Chevron’s ultimate responsibility for these problems.

Chevron distortion: Pablo Fajardo is a front man for lawyers who are trying to scam Chevron. This statement is preposterous, as in reality it is Chevron that has chosen to distort facts because it views this legal problem in solely monetary terms. We are in position to say that Mr. Fajardo was raised in abject circumstances and thru sheer tenacity obtained a law degree via a correspondence course. He is the recipient of both a CNN “Hero” award for his fight against Chevron, as well as the Goldman Award mentioned above – an award that House Speaker Nancy Pelosi calls the equivalent of the Nobel Prize for the environment. Mr. Fajardo has been the target of numerous death threats for working to protect the environment from Chevron’s operational practices. Your company’s personal attacks on Mr. Fajardo increase the danger he faces in Ecuador, and therefore can be seen as extrajudicial attacks on the trial process itself and the rights of the people Mr. Fajardo represents to assert their claims against Chevron. We again ask that you cease targeting Mr. Fajardo personally with distorted information and that you respect the trial process in which he plays such a vital role.

To conclude, you are no doubt aware that a court-appointed expert in Ecuador recently reviewed all the evidence in the Ecuador litigation and concluded that Chevron was principally responsible for extensive toxic contamination over a 1,700 square mile area of Ecuador’s rainforest. This report concluded that damages to Chevron could exceed \$16 billion, a figure we believe will be higher if others categories of damages such as groundwater contamination are considered. Approximately 200,000 people now live in the area of Ecuador’s Amazon where Chevron operated. It is our position – and one the independent court-appointed expert has now validated -- that the majority of them are exposed to a heightened risk of cancer and other oil-related diseases due to your company’s decision to dump billions of gallons of toxic waste onto our lands and to engage in other sub-standard production practices.

It is remarkable that most of the evidence relied on by this expert, Richard Cabrera, was produced by Chevron’s own technical staff over the course of the trial. Mr. Cabrera concluded in his report that Chevron’s 52,000 chemical sampling results help prove the case against the company. He also found that sampling results produced by the parties and by several independent sources all found roughly the same levels of toxic contamination at Chevron’s former production sites. In short, the scientific evidence against Chevron in the *Aguinda* case is unassailable. *Your own company produced most of it.* If you believe in Chevron’s own evidence, you must conclude that your shareholders face a substantial risk of losing the Ecuador trial. And if you believe your own evidence, you must also believe the plaintiff’s evidence because we lifted our soil

and water samples from the exact same sites you did, and our results are consistent with Chevron's results.

Despite the overwhelming quantum of evidence that points to Chevron's liability in the Ecuador case, your General Counsel and public relations staff continue to insist that there is no harm to the rainforest peoples living in Chevron's former operational area and that Chevron, a company that last year had gross revenues of almost \$200 billion, has somehow been scammed by two residents of the Ecuadorian Amazon who were born into and raised in poverty and who continue to live a bare bones existence.¹ Both of these assertions are not only ridiculous, they are demonstrably false.

In the interests of basic decency and your own fiduciary obligations to shareholders, we ask that you correct these factual inaccuracies immediately and order your General Counsel and public relations representatives to cease repeating them. We are copying this letter to Chevron's Board of Directors, the Securities and Exchange Commission, and the United States Department of Justice.²



Luis Yanza
Coordinator of the *Aguinda* Case Against Chevron



Pablo Fajardo
Lawyer for plaintiffs, *Aguinda v. ChevronTexaco*

Cc:

The Honorable Michael B. Mukasey
Attorney General of the United States of America

The Honorable Christopher Cox
Chairman, Securities and Exchange Commission

Members, Board of Directors, Chevron Corporation

¹ We note that your public relations staff has made the same "scam" argument to characterize plaintiffs from Nigeria who are suing Chevron in California for human rights violations. As you know, a U.S. federal judge in that case has rejected Chevron's arguments and set a trial date for September of this year.

² The words of Mr. James, given that he is a former Assistant Attorney General of the United States, come with the patina of credibility that people attach to a person who served the United States in such a high capacity. Thus, he has an added responsibility to exercise caution to avoid making false statements.