VANITY FAIR

BIG OIL

Pablo Fajardo, the lead attorney for the plaintiffs in the lawsuit against Chevron, standing on oil pipelines near the town of Lago Agrio, Ecuador. *Photograph by Rémi Bénali.*

Jungle Law

In 1972, crude oil began to flow from Texaco's wells in the area around Lago Agrio ("sour lake"), in the Ecuadorean Amazon. Born that same year, Pablo Fajardo is now the lead attorney in an epic lawsuit—among the largest environmental suits in history—against Chevron, which acquired Texaco in 2001. Reporting on an emotional battle in a makeshift jungle courtroom, the author investigates how many hundreds of square miles of surrounding rain forest became a toxic-waste dump.

by WILLIAM LANGEWIESCHE May 2007

In a forsaken little town in the Ecuadorean Amazon, an overgrown oil camp called Lago Agrio, the giant Chevron Corporation has been maneuvered into a makeshift courtroom and is being sued to answer for conditions in 1,700 square miles of rain forest said by environmentalists to be one of the world's most contaminated industrial sites. The pollution consists of huge quantities of crude oil and associated wastes, mixed in with the toxic compounds used for drilling operations—a noxious soup that for decades was dumped into leaky pits, or directly into the Amazonian watershed. The company that did much of this work was Texaco—an outfit with a swashbuckling reputation worldwide. It signed a contract with Ecuador in 1964, began full-scale production in 1972, and pulled out 20 years later. In 2001, Texaco was swallowed whole by Chevron, which by integrating its operations nearly doubled in size. The lawsuit against it in Lago Agrio was filed in 2003, though the legal antecedents go back much further. Having dragged on for four years, the suit may continue for half again as long. Chevron is represented by high-priced firms of experienced lawyers in Quito and Washington, D.C., whose collective fees run to millions of dollars annually. Its antagonists are 30,000 Amazonian settlers and indigenous people, who call themselves Los Afectados—the Affected Ones. These plaintiffs are represented by

a low-budget but serious team of North American and Ecuadorean attorneys, who are backed by a Philadelphia law firm that is known for class-action securities litigation and has gambled that this case, though risky, can actually be won.

Chevron objects vociferously, and presents itself as the victim here. Its attorneys have repeatedly claimed that the company is being extorted for "two juicy checks," one to be divided among the plaintiffs and the other to enrich their North American lawyers. The North American lawyers are indeed working on a contingency basis, but unapologetically so, and for a percentage significantly lower than the norm in high-risk cases; they would like to be well compensated for their efforts, but as much, they say, to encourage other lawyers to bring similar suits elsewhere in the world as to pad their personal bank accounts. The most active among them is a New York–based Harvard Law School graduate named Steven Donziger, who has invested 14 years in the case and would certainly be more secure had he pursued a conventional career involving the preservation of wealth. He counterclaims that Chevron's lawyers are the real mercenaries here. It is a philosophical quarrel that will never be resolved.

As for the plaintiffs themselves, under Ecuadorean law they are not suing individually, and personally may never see a dime. They have sued to seek compensation for past damages and to force Chevron to clean up the residual mess that continues, they believe, to taint the soil and water today. It is unclear how a cleanup would proceed and to what extent it could succeed, but over decades the cost might run to $6 billion or more—making this potentially the largest environmental lawsuit ever to be fought. And fight is the word. The case has become emotional for both sides, with few signs of willingness to compromise. Worldwide the oil industry is watching. Lago Agrio is a forsaken little town where something rather large is going down.

This is not, however, a U.S.-style legal drama. The Lago Agrio court follows Ecuadorean procedures, which minimize oral arguments and rely heavily on submitted documents to get at the truth. So far the proceedings have generated close to 200,000 pages. There is no jury to sway. There is a single presiding judge, drawn from a pool of three on a rotating basis for a two-year term of unusual pressure. Currently the judge is a rotund middle-aged man, a reader of Dostoyevsky and a convert to Islam. He must be the only Muslim in town. He told me it is not easy to be a judge there. Five years ago he was ambushed and machine-gunned while driving his car. His companion was killed, but he himself escaped. The attackers were hired killers, of whom Lago Agrio has an ample supply. Colombia's largest cocaine-production area lies just over the border a few miles to the north, and is peopled not only by narco-traffickers but also by leftist guerrillas and right-wing paramilitary groups. The police in Lago Agrio make a show sometimes of directing traffic. They did not investigate the attack, the judge believes, because they feared retribution. The judge accepted this without complaint, as if he had learned to believe in fate. Lago Agrio means "sour lake." He told me that the only safe choice there is to run away. Chevron would probably agree. It denies that the judge is fair, denies that the plaintiffs have legitimate complaints, denies that their soil and water samples are meaningful, denies that the methods the company used to extract oil in the past were substandard, denies that it contaminated the forest, denies that the forest is contaminated, denies that there is a link between the drinking water and high rates of cancer, leukemia, birth defects, and skin disease, denies that unusual health problems have been demonstrated—and, for added measure, denies that it bears responsibility for any environmental damage that might after all be found to exist. If Chevron can convince the court of the validity of even a few of those points, it will win the case and leave town.

Given the resources that Chevron has brought to bear, it seemed for a while that this indeed would happen—and for various reasons it may yet. But over the past two years there has been a change that, metaphorically, looks something like an inversion of Tiananmen Square, in which a lone man stands resolutely in front of a maneuvering tank, not to hold it off but to keep it from escaping. In Lago Agrio that lone man is a mestizo named Pablo Fajardo, aged 34, who was born into extreme poverty and toiled for years as a manual laborer in the forest and oil fields, yet managed by force of intellect to

complete his secondary education in night school, and through a correspondence course to earn a degree in law. He became a lawyer only three years ago, in 2004, yet has assumed the lead in the suit against Chevron in this, his very first trial. Chevron is represented by lawyers from Ecuador's ruling class, an oligarchy whose women fondly sing "Y Viva España" at Quito garden parties. They may have assumed that they could run Fajardo over. No one makes that assumption now.

In Lago Agrio the men wear hats against the equatorial sky. The women carry umbrellas for the shade they provide. Even the Indians complain about the heat. On a sweltering morning, I went to Fajardo's threadbare quarters in a small house that serves primarily as a file room and office, but that has a space for sleeping, and a crude kitchen and bathroom, usually without running water. Fajardo was sitting at his desk studying a document in preparation for a scheduled argument before the judge. He wore an open-necked short-sleeved shirt, slacks, and street shoes. He was the only person in Lago Agrio who was not sweating. In this story, where so much is disputed, it is an observable fact that Fajardo never sweats, and furthermore that when he moves through the jungle in his tidy-lawyer clothes he does not get dirty or wet. I sat across the desk from him and asked if at first he had been intimidated by the case.

He smiled, but then turned earnest and explained. "A team of settlers and indigenous leaders proposed that I take over. I wanted to think about it. I asked them for a month, and they gave me three days. I was worried, of course, about my lack of experience. I had been a lawyer for only one year. I knew the Chevron attorneys. They had 30 years of experience, and there were eight of them who would sometimes all come down here together. Usually I would be by myself. Eight of them in the Lago Agrio court, and I alone, facing them with one year of experience. I was afraid of making mistakes. So I spent the three days really thinking. I try to look at people on the same level, eye to eye. When someone is old or very poor, I do not feel above him. When someone is apparently superior, I do not feel below him. I realized that I was not inferior to the Chevron lawyers. In fact I had one advantage over them: I know the problems as they really are, because I live here. I have lived here for more than half my life. I realized that if I took the case all I would have to think about is how to tell the truth." His tone was almost apologetic. He said, "And so I am still here." He spread his hands to indicate the threadbare office. He smiled again, but with serious eyes.

Chevron lawyer Adolfo Callejas and Pablo Fajardo, behind him, during a judicial inspection of the waste pits. *Dolores R. Ochoa/A.P. Images.*

Fajardo is amicably divorced. He has two small children who live in a safer town, called Sacha, where their mother, his former wife, keeps a small grocery store. Fajardo does not mind sleeping in his office. Anyway, he cannot afford a house. He cannot afford a car. He likes to drive. He is a poor driver. In Lago Agrio he gets around on a mountain bike, on which he lavishes great care. From his office to the center of town is a 10-minute ride with time for salutations. The streets are rough, but the bike has shocks. By preference Fajardo would ride to the court building, but there is no safe place there to lock the bike, and so when he has to appear before the judge he takes the bus. Buses are surprisingly frequent in Lago Agrio. That morning I took one with him. The appearance was to be in the judge's office, on the building's upper floor, around the stairwell from the makeshift courtroom. While we waited in the hallway, Chevron's lead Ecuadorean attorney arrived, accompanied by armed bodyguards. He is a tall, gaunt man named Adolfo Callejas, who has served the oil company for more than 30 years. Callejas comes from a wealthy and politically powerful family. He had flown in that morning from Quito with another Chevron attorney, and would fly out the next day. Chevron would not allow him to speak to me. He and Fajardo greeted each other stiffly, as boxers might before a fight.

The judge ushered us into his office and sat us in a loose circle on a sofa and chairs. This was to be a preliminary negotiation in preparation for the final phase of the trial. At issue was the selection of a technical expert who could direct a team to survey the total extent of the pollution in the former concession area, in order to produce an unbiased report on the full consequences, and to provide a court-sanctioned estimate of the cleanup costs. As expected, the two sides could not agree on the choice. Fajardo proposed only Ecuadorean experts, all of whom Callejas rejected, apparently out of concern for Chevron's unpopularity in the country. Callejas proposed only foreign experts, all of whom Fajardo rejected, apparently out of concern for Chevron's reach. This went on for a while. The judge eventually intervened and announced that under Ecuadorean law he was required to break the impasse, and that he himself would select the expert in order to move justice along.

Pacing has become a major point of contention in the trial. At the core is the sheer size of the former Texaco operation. During its stay in the region, the company drilled approximately 325 productive wells and built 18 associated crude-oil-processing facilities—creating a total of more than 340 locations where wastes were stored or released into the watershed. After the start of the trial, in 2003, the court invited each side to choose from among these locations the sites where it wanted its own "judicial inspections" to be performed. Each judicial inspection would involve a visit to the site by the presiding judge along with the opposing attorneys and their technical teams. Once on the scene the judge would tour around, hear arguments on relevant law and history (complicated by the fact that Petroecuador had been active in many of the locations after Texaco's departure), and order the opposing sides to take field samples to ascertain the degree of contamination. Altogether 122 sites were listed, the great majority on demand of the plaintiffs. Chevron requested 36. The judicial inspections turned out to be expensive and cumbersome affairs—episodes of political theater as much as of science, involving elaborate preparation, crowds of participants and protesters, police, bodyguards, soldiers, fleets of vehicles, shade tents, catered food, and plenty of grandstanding for television cameras. Predictably, a sampling war broke out, with the plaintiffs claiming to find extreme levels of contamination, Chevron claiming to find little, and each side impugning the science of the other. After four years, by early 2007, only 45 judicial inspections had been done. Believing that the process could continue another 10 years, that the findings of each side were proving to be duplicative, and that sufficient evidence had been presented to proceed to the final phase of the trial, Fajardo in 2006 withdrew the request for 64 of the judicial inspections originally sought by the plaintiffs. His basis was a principle in civil law that the burden of proof (and therefore decisions about its sufficiency) lies with the plaintiffs. The withdrawal elicited strong protests from Chevron's attorneys, who filed four separate motions in court to force the plaintiffs to stick to their own original plan. After those motions were denied, Chevron publicly mulled over having the judge recused, accusing him of bias and of rushing the trial. The Associated Press reported the comments in Spanish. In a country as weak and uncertain as Ecuador, significant pressure was being applied.

But when later I spoke to the judge in private, he seemed concerned more with the workload inside the court than with pressures on the outside. He showed me a document that Callejas had just submitted to him—30 pages of legal points produced by the Chevron lawyers, requiring a prompt response. He sighed. He does not have a clerk. He works eight days a week. He took me to a file room to see the trial's document collection. Almost 200,000 pages so far. He did not know the number exactly, and rounded it up to a million. Plus 30. He had never seen anything like this before. He said that before writing the decision a judge would have to isolate himself in a Tibetan monastery for two years just to get the reading done. But first he would have to go through the last of the judicial inspections, collect the information from the environmental survey, handle the associated arguments and maneuvers, and add those documents, too, to the reading list.

The judge certainly did not feel that he was rushing the trial. Rather, he was trying to keep it from completely bogging down. Chevron, for its part, insists that delay is not its object. The plaintiffs' lawyers are persuaded that it is. Steven Donziger once explained to me the cold logic of delay. Take $6 billion as a figure, he said. Simply by sticking the money

into a savings account Chevron could make $300 million for every year it doesn't pay. That sum multiplied by the four years of the trial so far would amount to $1.2 billion, which is far more than, say, $50 million spent on legal fees, even if Chevron now loses the case. And what if Chevron wins—what would the calculation be then?

But in the judge's office on that sweltering equatorial morning there was more than just money at play. Fajardo insisted on the question at hand—the choice, now the judge's, of an expert who could be trusted to conduct an unbiased survey. Callejas, however, kept veering into the judicial inspections, and, his voice rising, began objecting to the personal insults that he had to endure. The nature of those insults was not evident to me, because they had not been spoken in the room, but the emotion of Callejas seemed real. Late in the session, as Callejas grew more heated, a community leader named Luis Yanza came into the office. Yanza is a small and taciturn man, with features that are purely Inca. He bluntly challenged Chevron's legal tactics. Callejas stood up and stalked out of the room. Afterward when I mentioned the episode to the judge, he merely shrugged, as if he was accustomed to these emotions on both sides of the battle. Later in Quito a law professor explained them to me. He said that the lawsuit is a fight not just about oil companies in the jungle but about 500 years of South American history.

But let's get the story straight. God created Earth, and later created oil, but until the 1950s he left Lago Agrio to its natural ways. Actually, Lago Agrio did not even exist in the 1950s. It did not have a name. It was an uncharted wilderness along the Aguarico River—a forest Eden roamed by small groups of naked Indians, some of whom believed that the only real world is the world of dreams. They hunted with blowguns, drank hallucinogenic brews, made love in the jungle, and sometimes shrank enemy heads. Dear God, these were people who deserved to be left alone. But God by then had created the United States. In Texas in 1902, in a nasty little town called Sour Lake, the Texaco oil company was born. Equally troubling, a half-century later Oklahoma emerged into the 1950s feeling proud of itself. It equipped missionaries with small airplanes and sent them winging south. Other states did the same. The missionaries flew south intending only to harvest souls, but by contacting and settling the potentially hostile tribes, they served as the advance agents for oil. When they arrived in the Ecuadorean jungle, they dropped tools and trinkets into the forest clearings, landed on the riverbanks, and soon established permanent stations—little Oklahomas in the Amazon. For whatever strange reason, they wanted the Indians to put on clothes, go to church, and stop drinking, fighting, and fucking around. Once past the first friendly hellos, they set up movie projectors and—for Stone Agers who already believed in hallucinations—showed pictures of sinners burning in hell.

Some Indians resisted. In 1956 five missionaries from the notorious Summer Institute of Linguistics (SIL), of Norman, Oklahoma, were speared and hacked to death, and had their airplane destroyed. The killers were warriors from a group known as the Huaorani. Apparently they believed that these missionaries were cannibals who had dropped in from the sky to consume them. They weren't far wrong. The killings made big news in America at the time, and brought forth a surge in missionary funding. In the Amazon the killers were hunted down. A few hostile bands fled deeper into the forest, where they continue to resist today. However, the bulk of the Huaorani were enticed by the missionaries to leave their territory and settle into communities lorded over by the dead pilot's sister. The scene there was twisted from the start, and over a decade or two it grew worse. The SIL finally shut the operation down in 1980, but too late for anyone's good. Soon afterward the group was expelled from Ecuador. The Huaorani returned to their former lands, which meanwhile had been decimated by oil exploration and production, and many of them became the dependents and roadside beggars that they are now.

The pattern was similar along the Aguarico River, where the Indians were settled and tamed by North American missionaries, including the SIL, shortly before Texaco's arrival. In 1964, Texaco signed a contract with the Ecuadorean government to explore for and extract oil in the concession area, in a consortium with Gulf Oil. The consortium was

purely a financial arrangement. The actual operations on the ground—exploration, design, construction, production—were to be the exclusive responsibility of Texaco. This held true after the newly formed state oil company, Petroecuador, bought out Gulf's stake and, in December 1976, assumed 62.5 percent of the consortium's shares. Even then, Texaco remained the sole operator until a transition began around 1990. It is not by chance therefore that Chevron is now the sole defendant in the Lago Agrio trial—though it insists that it is being unfairly singled out. In environmental regulation, an operator may be held wholly responsible for any pollution that may occur—though that operator can turn around and try to recoup some of the costs from other stakeholders. Chevron cannot recoup the costs from Gulf Oil, because it bought the company in 1984; it could conceivably turn on Petroecuador if it loses the case, at some point in the future. Be that as it may, when Texaco signed the contract, it was not with a representative government, but with an incompetent military regime in a corrupt country so dysfunctional that in the Amazon it existed purely as fiction—a cartographic boast without viable airports or roads, enclosed by unmarked boundaries that were in dispute, where the indigenous people were not even recognized as full citizens. Ecuador had practically no environmental regulations, no technical knowledge of oil operations, no scientific or public-health expertise, no governmental oversight capabilities—and no clue that it even needed such things. It needed money, pure and simple. This changed slowly over time, but by First World standards never nearly enough. In 1971, on the eve of large-scale production, Ecuador passed the first of a series of unenforceable laws requiring oil companies to protect the region's "flora, fauna, and other natural resources" and to "prevent pollution of the water, the atmosphere, and the land." How exactly this was supposed to be achieved was never specified, though in practice it involved self-regulation. One of the claims of Chevron now is that Texaco always complied with Ecuadorean law.

Ecuador saw the Amazon as a dumping ground—a view which in no sense contradicted the promise of oil. Whenever the prisons in the rest of the country grew overcrowded, inmates were pulled out of their cells, trucked across the Andes, bound at the wrists, placed in ancient boats, and shoved off down the jungle rivers to fend for themselves. It is not known how many died. Some floated down the Aguarico and came to rest around Lago Agrio several years before Texaco arrived. They cut small clearings in the forest, burned the felled trees, took Indian wives, and began to farm. A few other settlers arrived voluntarily. Starting around 1965, Texaco showed up in an altogether different style. It built an airport, filled the air with helicopter chatter, hauled in oil-field equipment and supplies, built an air-conditioned camp to house its personnel, and prepared to drill the first exploratory wells. This was Lago Agrio at birth, before the road. That road was already pushing in from the Andes, because the government had decided to open the Amazon to settlers to consolidate its claim to the region and to relieve social and political pressures elsewhere in the country—in other words, for reasons independent of oil—but it was progressing by merely a mile or two a year.

Texaco struck oil with its very first well, just north of the camp, Lago Agrio No. 1, in 1967, and then struck again with No. 2, a short distance away. Other strikes quickly followed, confirming the existence of significant fields not just around Lago Agrio but also in a string to the south and southeast. Pouring in more men and equipment, Texaco capped the first wells, continued to drill others, and fully committed itself to the project. It was extremely active. Over the next few years it drilled almost every one of the wells now in question. To connect them to the market, it also built a major pipeline, mostly aboveground, from a Pacific port in Esmeraldas, across the Andes at 13,000 feet, and down into the jungle to Lago Agrio, a distance of 312 miles. As part of the pipeline construction it also took over construction of the road, and accelerated it hard. The road reached Lago Agrio in 1970, and was followed immediately by thousands of impoverished settlers seeking land and jobs. The town of Lago Agrio sprang up violently, just west of the fenced and guarded Texaco yards. The pipeline was completed. The oil wells were uncapped, and on June 26, 1972, the hot crude began to flow—up from the reserves 5,000 feet below, through a separation station in Lago Agrio, then westward through the pipeline, across the Andes, into tanks at the port in Esmeraldas, and finally into ships bound mostly for the refineries of California. For the next 20 years

and beyond, drivers buying gas at Texaco pumps had a direct connection to the Amazon, and though Texaco profited handsomely from the arrangement, the drivers did, too, because the price of that gas was low.

Twelve days after the oil started flowing, in 1972, Pablo Fajardo was born to a peasant family in the distant coastal province of Manabi. He was one of 13 children, and the fifth son. His parents had so many offspring, he told me, because they didn't have TV. Or much else, apparently. Fajardo walked to a country school, one hour each way. When he was six, the land dried up, and the family moved upcoast to the province of Esmeraldas. There he finished primary school, and the first year of secondary, while also working in the fields. In the 1980s, drought came to Esmeraldas as well, and the family's fortunes continued to decline. After word filtered back of work to be found, the family uprooted itself once again and in separate clusters boarded buses and rode them east to the Amazon. Fajardo was 14. Arriving in the region, he passed through Lago Agrio and traveled another 50 miles east to the largest of the oil fields and a small town called Shushufindi, which had grown at the gates of Texaco facilities.

Then as now Shushufindi was a violent place, with a reputation for being the roughest town around. Recently when I was there it suffered eight murders in a single week, none of which were investigated. When Fajardo arrived, in 1987, it was a grid of dirt streets, with gunmen in the bars, and fewer schools than brothels. A sign at the entrance read, WELCOME TO HOUSTON. Fajardo's family moved into a shack on the town's outskirts by a fetid stream. Texaco's operation there was in full bloom. A Spanish priest who was present at the time described the scene to me as an oil-world hell. The North Americans lived in a comfortable compound, he said, and played tennis at night, but just outside the fence people had no electricity, and after the sun went down they lived largely in the dark. Day after night, the air was so thick with black smoke from gases and waste oil being burned at separation stations that the tropical rains fell laced with soot. People collected the rain anyway, often in discarded Texaco drums, and for lack of choice they drank the water. Like the forest roads, the town streets were sprayed with oil from waste pits to suppress the dust. The streets became extremely slick in the rain. The drivers of oil-company pickup trucks roared through without slowing down, the Spanish priest recalled, and they often injured and sometimes killed pedestrians unable to get out of the way. There was no recourse to the police, who were criminals themselves, and completely without power. The Ecuadorean Army was there as well, but primarily to protect the oil. The relationship of the army with the oil industry continues to this day in Lago Agrio, where for the first few years of the trial Chevron's attorneys stayed in a house on the local military base. In Shushufindi in the 1980s, Texaco's North American managers deplored the violence, but felt they could do nothing to stop it. They were there for one reason only, and it did not include solving Ecuador's social problems. They blamed the Ecuadorean government for encouraging too many settlers, though the pool of the poor and unemployed provided an ample supply of laborers who would toil for low wages and could be replaced with ease.

Fajardo became one of those laborers as soon as he arrived. At age 14 he went to work in a palm-oil grove, clearing jungle growth with a machete. At night he continued with secondary school, which took him another seven years to complete. Life was extremely hard. When Fajardo was 17 his parents separated and moved away, leaving Fajardo in charge of his younger siblings; he managed to buy a shack in the poorest part of town, where he set up house, adding cooking and supervision to all his other duties. At about the same time he began attending a church group, not because he was religious, but because the Spanish priest was there, urging people to stand up for their dignity. In essence the priest said, You are all human beings, equal to any other, and people should not exploit you just because they are in positions of power. You must look at these people on the same level, eye to eye. Fajardo heard the message clearly. In early 1990, when he was 17, he helped to found a local human-rights group to start standing against the abuses. He was a modest fellow, more earnest than angry, and therefore was genuinely surprised when his fellow members—most much older than he—selected him to be their president.

At the palm-oil grove, too, people now sought him out as a leader. Fajardo worked there with two older brothers. The work was grueling, unsafe, and poorly paid, with wages, at about $50 a month, only marginally higher than those required to stave off starvation. The workers did not, however, consider themselves to be slaves. When the company did not pay them, or did not provide them with protection from the chemicals they were supposed to use, they turned to Fajardo for help, and Fajardo went to the managers to complain. He began also to ask them for raises. The company, Fajardo says, labeled him a subversive and accused him of being a labor unionist. By his account, it put a spy on him, to follow his movements. Eventually Fajardo and his two brothers were called into the office and summarily fired. Fajardo was 19. Years of night school lay ahead before he would complete his secondary education. He had no greater expectations. With his younger siblings to support, he signed on as a menial laborer performing maintenance in the oil fields. He cleaned storage tanks and pipelines, and poured concrete. He made more money than he had at the palm-oil grove, but remained desperately poor.

In 1992, when its contract expired, Texaco pulled out of Ecuador. It handed over the entire operation to Petroecuador, including an infrastructure badly in need of upgrades. In 1993 an Ecuadorean-American attorney named Cristóbal Bonifaz filed a class-action suit in a New York federal court on behalf of the settlers and Indians. The complaint was nearly the same as that filed a decade later in Ecuador. Donziger joined the case. At a Lago Agrio meeting attended by Fajardo, an organization was formed to serve as the plaintiffs' voice: the Frente de Defensa de la Amazonía, now commonly called "the Front." The fight was on.

The situation in Lago Agrio is not as complex as the trial makes it out to be. Much of the pollution today is left over from the original drilling operations, now long gone. Texaco drilled most of its wells in the first few years, when Gulf was still its financial partner. To support its drilling rigs, it required flat terrain, where the naturally soft soil could be reinforced with gravel. Often it built these pads on high ground, in clearings that it bulldozed on the edge of short slopes which drain into the streams and rivers. The topsoil consists generally of organic matter and clays, both solid and fractured. It is typically about three feet deep and is underlain by permeable alluvial deposits of sand and gravel, as well as by clay "lenses." The water table usually lies about 10 feet below the surface. There are variations. In swamps it lies on the surface. On the tops of hills it may lie as much as 30 feet below. The oil lies deeper, more than a mile down. Drilling for it is a tough and messy job. It involves noxious fluids, known as drilling muds, which become wastes once they are used. The soil in the concession area has been found to be tainted with unusually high levels of chromium 6, cadmium, and barium—all toxic materials associated with the drilling and extraction process. Drill bits also commonly encountered small, unexpected pockets of crude on their way to larger reserves—crude that then came oozing up to the surface. Crude itself contains dangerous toxins. The resulting sludge—a combination of poisonous muds, cuttings, and crude—was slopped into unlined open-air earthen pits on the sides of the jungle clearings. More crude oil was added after the wells became productive, during necessary testing of the finds. All this was entirely normal. Less normal was a policy of abandoning the pits once the drilling was done and the wells were hooked up to the system of small feeder lines. In the United States at that time the wastes contained within the pits would have been disposed of in one of various expensive ways after the drilling was over, but in Ecuador they were left as is. The pits were not fenced. At many well sites settlers who had followed the roads lived close by. Their livestock slipped into the pits and added their cadavers to the ooze. The pits varied in size. They were generally about seven feet deep, which placed the bottoms close to subsurface waters.

Chevron maintains that the pits were universally self-lining because universally the soil was made of impermeable clay. The plaintiffs and their experts maintain that this is far from the truth. The defendants must also contend with the soil samples taken even by their own experts during the judicial inspections associated with the trial, some of which seem to indicate that component elements of the waste have drifted into the nearby soil. The use of unlined pits had long been restricted in the United States (with variations by state) to locations where they could not contaminate freshwater

supplies. The watery environment of the Amazon presents the opposite chance, and all the more so because it is inhabited by a large population of the poor, who have no choice but to drink from streams and shallow wells. Texaco did consider lining the pits. In 1980 it examined the cost of transferring the wastes to new, concrete-lined pits, and having come up with a figure of $4,197,968, it decided to leave matters as they were. In any event, and questions of permeability aside, Texaco built between 800 and 1,000 pits in the concession area, according to one survey, and it systematically poked pipes, or "siphons," low through their sides to drain them downslope and keep them from overflowing in the tropical rains. Since water is heavier than oil and sinks to the bottom of the pits, the idea was to slip it out in pure form from underneath the wastes. There is ample evidence now that this did not work. During extensive inquiries on the ground, over several weeks, I carefully walked the streams below dozens of the pits, keeping clearly in mind the relevant distinctions between pits that were used exclusively by Texaco, pits that later were used also by Petroecuador, pits that are earth-covered (having officially been cleaned up), and pits that remain full of waste and open to the rain. With exceptions along a few healthy-looking streams, these distinctions did not seem to matter. The overwhelming reality is something that science must explain: for hundreds of yards below pits of whatever distinction, and for whatever reason, even 30 years after most of the drilling was completed, rainbow patches float gently down the stream, and the sediments when stirred belch black gobs of stinking waste.

There is no question that Texaco was an unpleasant guest. In July 1972 a confidential memo about the reporting of spills was sent from a division office in Coral Gables, Florida, to Texaco's acting manager in Ecuador. It read:

a) Only major events as per Oil Spill Response Plan instructions are to be reported. These events are to be reported immediately.
b) A major event is further defined as one which attracts the attention of press and/or regulatory authorities or in your judgment merits reporting.
c) No reports are to be kept on a routine basis and all previous reports are to be removed from Field and Division offices and destroyed.
R. C. Shields

Five years later, the Ecuadorean government tried weakly to show its power. In an official letter under a motto which read, "Ecuador has been, is, and always will be an Amazonian country," the head of Ecuador's Federal Hydrocarbons Bureau accused Texaco of negligence in the maintenance of pits and oil wells around Lago Agrio. Having listed seven sites where poor maintenance and inadequate practices had caused or threatened to cause major spills or leakages, and having reminded Texaco of its legal responsibility as the consortium's operator, he brought out his heavy weaponry and levied a fine of $3,650.

Oil was spilling all over the place. It was spilling in all its forms. Texaco was spraying it on the roads. Texaco pickups were sliding on their own slicks and crashing into feeder lines, which then sprayed more. I met a settler who said that as a boy he observed a scene in 1981 when a large tanker truck that had been spraying the road near his house lost control and slipped into a ravine. It came to rest upright by a stream. Two tow trucks arrived to pull it out, but the tanker had just loaded up with waste (from a neighboring pit, to spray) and it was so heavy that it could not be budged. Next a Texaco pickup roared up, and a gringo jumped out acting very aggrieved. After another attempt with the tow trucks, he went swearing into the ravine, and with a ruthless twist opened the truck's valve to let the waste run out. Lightened, the truck was recovered. Twenty-six years later, the settler led me down into the ravine and showed me the waste just below the grasses and in the sediment of the stream. He knew that Chevron often states that the problem with the water now is that it has been tainted by the settlers' latrines. But excrement is a fertilizer too, and there was evidence here that the forest, rather than thriving on the nutrients, had sickened. A cluster of stunted cacao trees grew along the stream. The settler said

he would make chocolate of the beans and send it to Chevron's headquarters if he could be sure that the people there would eat it for Christmas. Or he would boil and bottle the water and send it to them to drink.

But on the scale of Ecuador's contamination the pollution he showed me wasn't that much. Certainly the record of the 312-mile Trans-Ecuadorean pipeline is more impressive. Over the 17 years that Texaco operated this conduit to the sea, until Petroecuador assumed control, in 1989, the pipeline suffered 27 major breaks and spilled nearly 17 million gallons of oil, much of which was not cleaned up. The volume of the spills has been widely reported. For comparison, the grounding of the *Exxon Valdez* spilled 11 million gallons. More to the point, over the first quarter-century of its life, from 1977 through 2002, the 800-mile Alaskan pipeline spilled only 1,675,000 gallons—almost all of which was cleaned up. Fajardo is convinced that the industry knew how to handle itself better than Texaco handled itself in the Amazon. At the core of his argument in court is an assertion—vigorously disputed by Chevron—that contamination that exists today results from choices Texaco made to maximize its profits by setting up an operation in disregard of the environmental standards that it maintained at the same time in the United States.

The Trans-Ecuadorean pipeline snakes more than 300 miles from Lago Agrio to the Pacific coast. Over two decades it spilled more oil than the Exxon Valdez. *Cyril Le Tourneur D'ison/Gamma.* Enlarge this photo.

The oozing pits at the oil-well sites would seem to be a case in point. The contamination they contain is easy to identify, and at each site was introduced primarily during the initial drilling, though added to (with acids among other materials) during the maintenance of wells. Thousands of earthen pits were dug in the United States at the time, but under strict licensing intended to ensure, site by site, that subsurface or surface waters were not even remotely threatened. More insidious in the Amazon were the choices made and sustained during the subsequent decades of production. As always, the oil emerged from wells mixed with undesirable water and natural gas. This mixture was piped to local separation stations, where it flowed into a series of tanks in which, specialists estimate, more than 95 percent of the desirable crude was extracted. The extracted crude was pumped off to the Trans-Ecuadorean pipeline for the trip across the Andes. The mixture that remained behind consisted of natural gas, residual crude, and a large volume of "produced water," which, depending on the wells, was variably laced with heavy metals, salts, and carcinogenic petroleum compounds in solution.

The waste gas was piped to the edge of the stations, where it was burned as it expanded into the air. In the United States, regulations required such flares to be vertical and so thoroughly oxygenated that they produced practically no smoke. In the Amazon, however, Texaco turned some of its flares horizontally, directing the flames into produced-water pits, to burn off the petroleum floating on top. Some oil escaped the fire, and made it to the streams; much of it, however, ignited, and produced billows of thick black smoke that drifted in the winds and rained particles across the forests, waters, and towns. Over the years since Petroecuador inherited the operation, that practice has nearly stopped. The waste oil is disposed of in other ways, and almost all flares are directed vertically, though they still smoke unnecessarily. Petroecuador is no shining example of an oil company. To its credit, however, it has worked hard to reform local practices, if not to meet the standards of the 21st century then at least to meet those of the 1970s.

Which returns us to the produced water. The problem is that very often—though not always—it is poisonous. The variations depend on the geologic formations deep below the earth's surface where the oil is found. In the United States and most other countries, the methods that were used to handle it in the 1970s were the same as those used now: the water was tested when it first emerged, and if it was found to be unsafe to release into the local environment it was re-injected

back down into the depths where it would not taint drinking-water supplies. The re-injection was done through oil wells that had gone dry, or through new wells drilled for that sole purpose. By the 1970s, standards had grown so tight in the North American oil-producing industry that re-injection was the norm—all the more so because it offered a safe way to dispose of other dangerous wastes left over from the production of oil. But re-injection is expensive, and in some places, such as Chevron's oil fields in the San Joaquin Valley of California, the produced water was deemed to be fresh enough to release into the local streams in limited quantities. The decision was carefully supervised by regulatory authorities, who continued to monitor the produced waters as they were released, because the water emerging from any given well can vary over time. The main concern was salinity. Saltiness was defined by the concentrations of total dissolved solids (T.D.S.) and chloride, both measured in parts per million. The decision to release the produced water was based not only on its composition but also on the nature of the environment into which it would flow. In an uninhabited and salty desert, for instance, the standards were more relaxed than in a delicate eco-system close to freshwater sources. Chevron's San Joaquin oil fields stood in an agricultural area, which is something in between. Most drinking water there came from distant mountain snows, as did the water that irrigates plants. For Chevron's surface releases in this area the acceptable limits were set by the state of California in 1960, with a T.D.S. at 1,000 and chloride as high as 200.

Texaco did not re-inject its produced waters in the Amazon operation, though Petroecuador does at every station today. No evidence has appeared at the trial that Texaco during its 20 years of production even tested the waters. The produced water flowed from the separation tanks into the pits (sometimes in series), where the surface crude was either burned or vacuumed up. The remaining produced water was piped directly into the forest, often into small streams, where it accounted for a large part of the subsequent flow. Barrels of unused chemicals were disposed of similarly, by being poured into the pits to join the releases. In 1990, Texaco's Coral Gables office sent in three consultants for nine days to make an environmental assessment of the entire region, including portions of the pipeline, which had been turned over to Petroecuador. They reported back that the environmental impacts were primarily aesthetic, that "petroleum operations are responsible for only a relatively small part of the total deforestation," and that "cleaning up of spilled oil is not a top priority operation in Petroecuador." They also tasted the produced water and reported that it didn't taste too salty. Texaco was heading for the door. Just after its departure a complete assessment was performed by a Canadian company. Didn't taste too salty? Among the separation stations, the produced water had an average T.D.S. of 30,500 (30 times California's limit) and a chloride level of 17,568 (88 times California's limit). At a station called Atacapi, the numbers were T.D.S. 147,000 and chloride 88,000 (respectively, 147 and 440 times California's limit, and more than 4 times as salty as seawater). Though the salty water was mixed with fresh water downstream, for significant distances in some places freshwater eco-systems were damaged or destroyed. Later, Petroecuador ran its own studies and found dangerously elevated levels of other hazardous substances, including petroleum hydrocarbons. No wonder it went to re-injection.

Over the 20 years of its operation Texaco poured at least 12 billion gallons of this juice into the Amazon. Fajardo says he first realized that perhaps there was a problem when he was about 14. He probably would have realized it sooner, but he had to move to Shushufindi first. He said, "When we moved here to the house where we lived, I saw that the water in a little stream nearby was very dirty, and there were no fish anymore, though people said there had been before. Another stream nearby was covered in oil. So we had nowhere to bathe. After we moved to the center of Shushufindi, to the house that I bought, things became even more difficult, because the water was very dirty. We had a water well, but its water tasted like acid. We had to wait for rainwater. But the rain would fall with black particles. My house was about 500 meters from the central separation station. There were some burners that burned permanently with very black smoke, and when it rained, oil fell mixed with the water. I thought this was very unfair, but I still did not know it could poison us.

"After we formed the human-rights group, in 1991, I started to visit more communities, and I saw all the damage, how the

poor suffered—that they had no clean water, that their animals were dying, that a lot of people were sick. Over the next few years I became more and more convinced that it is everyone's duty to fight for this cause, to have a better environment."

Apparently there were no limits to what he would take on. In a typical week in 1994 he labored in the oil fields, promoted workers' rights, supported his younger siblings, bought their food, cooked their meals, prepared for final exams at night school, led the human-rights group, volunteered at the Front, worked with remote communities on the weekends, read, thought, talked, played soccer, charmed various women, and for all I know took a driving lesson—though less successfully with this than the rest. No sooner had he graduated from secondary school than he enrolled in correspondence classes to become a computer technician, not because he cared about computers—the subject bored him—but because he could find nothing else to study from Shushufindi. He was 22. He didn't know it at the time, but already he was training for the battle with Chevron. Chevron didn't know it, either. It had no idea. It had not even swallowed Texaco yet. It was up in California sending faxes to itself. It was playing golf in the San Francisco suburbs, and rooting for the high-school swimming team.

In 1995, Fajardo was elected president of his neighborhood—the poorest in Shushufindi—and he began to attend town meetings. He got a diploma that qualified him as a computer technician. He disregarded it. On weekends he and about a dozen other leaders took correspondence courses from a Quito university on the environment and human rights. In 1996 he founded a free night school for adults, became its principal, and began to teach literacy classes. That same year he began to work with Indian communities, married the cute and funny Fanny Villares, who was also with the human-rights group, moved her into his little house, got her pregnant, and proceeded to get fired from his oil-field job. He was busy-busy and still just warming up. The dismissal was no surprise, Fajardo says, because the company had been treating the workers roughly and slopping chemicals around, and he had challenged it to do otherwise.

Adding to his woes was the fact that, though he was busy, almost nothing Fajardo did earned him money. Believing that he had been blacklisted by the oil companies, he went to work full-time at the human-rights office, making $50 a month. It was no longer enough even for food. His poverty was nothing noble. It anguished him and caused troubles in his marriage. He endured it only for lack of choice, as he had all his life.

Then the sun came out. In the spring of 1997 his daughter was born, and she was healthy and bright. A few months later the Catholic priests, who had been observing him for years, found resources to provide him a law-school scholarship. It was for books and tuition only, for a six-year correspondence course, but eight of Pablo's friends got together and made a commitment of their own to help sustain him for the period involved. Determination drove him through the next six years. Every day he woke at 3:30 in the morning, had a quick bite, studied lawbooks until 8:00, rushed to the human-rights office, worked on cases there until midday, rushed to the Shushufindi radio station, went on the air from noon until 1:00 to read the news (which he had to prepare), rushed back to the office, worked there until closing time, took an hour to come up with a lesson plan for the class he had to teach, went to the night school and taught, got home around 11:00 to sleep for a few hours, and did it all over again the next day. In other words, he thrived.

Meanwhile, in U.S. federal court in New York, the original lawsuit was dragging on. The plaintiffs' attorneys had opted for a U.S. court because there are more due-process protections, including a jury—an option not provided in Ecuador—and they knew that the Ecuadorean courts were historically weak and corrupt. Before the case could go to a jury trial, however, Texaco's attorneys diverted it into an esoteric argument over the U.S. court's jurisdiction. That argument would last nine years, during which time the first U.S. judge died, Chevron acquired Texaco, and in faraway Shushufindi, Fajardo nearly finished law school. But that was not all Texaco did. In 1994 it sent a high-level attorney to

Quito. In meetings with Ecuadorean officials he offered to clean up, or "remediate," some of the waste pits and to offset or remedy certain other problems in the concession area, in return for a release from further liability. The primary release was to be at the front end, upon signature of the contract, and was to be followed with a final sign-off for the remediated pits, once the work was done. Implicit in the approach was an admission that the Amazon was indeed polluted, and that Texaco bore at least some responsibility.

But Texaco was not feeling repentant. Judging from its subsequent actions it intended to use the release to shut down the proceedings in New York. Texaco did not propose to clean up the streams and rivers (let alone the subsurface waters), or to pursue the question of people's health. Primarily it offered to remediate 37.5 percent of the pits, a fraction derived from its ownership share in the consortium with Petroecuador. Of the hundreds of pits that were known at the time, it proposed to remediate 161. What did Texaco mean by "remediate"? Certainly not to restore the ground to its original condition. Instead, it proposed setting a cleanup standard based on a value for total petroleum hydrocarbons (T.P.H.) measured in parts per million. Ecuador currently has a soil standard of 1,000 T.P.H. Standards in 1994 varied from state to state in the United States according to land usage, and in Texas and Louisiana were as high as 12,000 T.P.H. (and even 30,000), but only under special circumstances where ground and surface waters could not be contaminated. For soils polluted by petroleum products in the United States the cleanup norm was usually 100 T.P.H. What Texaco proposed for the Amazon was a T.P.H. level of 5,000.

The government of Ecuador agreed to all of Texaco's terms and signed. Texaco treated the release like a ticket out of town, and to hell with broken hearts. It took the release to New York and argued on the basis of it that the lawsuit should be thrown out. The motion was rejected by the court because the release covered lawsuits only by the Ecuadorean government itself, and not those by private citizens. Eventually this spawned another esoteric debate, still being argued in U.S. courts.

Texaco hired a big American engineering-and-consulting firm called Woodward-Clyde and paid it $40 million to handle the remediation. Most of the firms actually doing the work were Ecuadorean, selected from a list provided by the government. The quality of their performance varied. After it was done and the sites had been covered with dirt, Woodward-Clyde took soil samples and without exception reported T.P.H.'s of 5,000 or less, demonstrating that according to the contract the remediation had been achieved. Recently I spoke to a geochemist with extensive experience in the field who disputes the quality of Woodward-Clyde's methods, but who did not suggest that their numbers were inventions: there are many ways to sample soil, he said, and consultants who work for "potentially responsible parties" (P.R.P.'s, in the language of oil and mining) have to be experts at compliance if they expect to survive. In any case, and for whatever reason, in 1998 the government of Ecuador signed off on the job. Fajardo alleges that a fraud occurred. Chevron denies it absolutely.

Meanwhile, in New York, the debate about jurisdiction dragged on. In May 2001, the federal court ruled in Texaco's favor and dismissed the lawsuit. The plaintiffs declared that they would appeal. September 11 came and went, and on October 9, 2001, Chevron swallowed Texaco whole.

Did Chevron know it was swallowing trouble? It certainly knew about the case in New York, but that was going well and promised to be over soon. It must have known of Texaco's reputation for roughneck operations, but times had changed, environmentalism had become the middle-class faith, and Texaco in public had been acting admirably. It wasn't based in Texas anymore, but in White Plains, New York. Many of its managers lived in the pretty towns of Westchester County, where it is possible to imagine that some dared to openly read *Vanity Fair*. Their political contributions were loaded heavily to the right, but publicly they supported cultural diversity, clean rivers, reforestation, concern about global

warming, H.I.V. prevention, anti-smoking campaigns, the opera, and probably the ballet. There was still a hint of cowboy in the name, but compared with its earlier persona, Texaco was looking practically metrosexual. Chevron must have felt comfortable with Texaco, at least in part because in public Chevron acted the same. It even had a tradition of handing out environmental awards.

And besides, there wasn't all that much solid information about Ecuador to go on. Texaco had not tested the produced water, not tested the pits, not tested the soil around the pits, not tested the rivers and streams, not analyzed the extent and effect of air pollution, not examined the question of water pollution, and not conducted epidemiological studies of people's health. By contrast, what Texaco executives did know was that nearly a decade had gone by during which Petroecuador had added to the mess; that the environmental assessment of 1990, despite its finding on the high salinity of the produced water, had concluded in appropriate consultative style that Texaco had violated no regulation or contract; and, finally, that the remediation conducted by Woodward-Clyde seemed expensive, impressive, and tidy.

The following summer a U.S. Court of Appeals upheld the earlier decision on jurisdiction in favor of Texaco and threw the plaintiffs' case out of the United States. But there was a catch, and it was an important one. As part of the decision, the U.S. judge required Chevron to accept the jurisdiction of the Ecuadorean courts and to agree to pay any judgment that might be imposed. Effectively the U.S. judge had reached out and reinforced the Ecuadorean courts, if only for this one case. There was reason to believe that the plaintiffs' attorneys had exhausted their resources, and that after 10 years of struggle they would come to their senses and quit. They did not. The plaintiffs' attorneys flew to Quito, recruited a prestigious Ecuadorean attorney, hired backup, and organized the opening moves to refile the case in Ecuador within the statute of limitations. The papers were filed in Lago Agrio, and on October 21, 2003, Chevron found itself where it did not want to be: dragged back to the Amazon and a lousy jungle town, paraded in front of protesters on TV, and entering into an emotional trial before a judge who was going to insist on his jurisdiction and make this into something about Ecuador's sovereignty. Added to the original complaint filed in New York was an additional allegation that the remediation had been a fraud. The two sides argued and maneuvered for about eight months, and in the summer of 2004 prepared for the first judicial inspection.

Fajardo was closely involved from the start. For the last six months of his law education, he had arranged to assist a lawyer for the Front, and at the end of that time, just as the trial began, he had been hired by the legal team to serve as its man on the ground in Lago Agrio, allowing the lead attorneys to spend most of their time at home in Quito. His salary was low by any standard, but he did not accept a contingency deal, in part because such an arrangement is highly unusual in Ecuador and would not be understood by his friends. In January 2004 he graduated and became a licensed lawyer. His closest brother traveled with him to the university in Loja for the ceremony. Under the glass that covers his desk, he has a picture of the two of them standing together on a street, looking pleased. Though he was now working in Lago Agrio during the week, he returned each weekend to his wife and daughter in Shushufindi, where he continued to be active in the human-rights office, and to pursue his myriad efforts to help the poor. Such work in the jungle is dangerous—and increasingly there were signs that he was at risk. Whether this was because of his involvement in the trial or in other, smaller acts of resistance to power, it was impossible to know. In January 2004 the human-rights office was burglarized and trashed, and Fajardo lost valuable papers, including his law-school thesis, which had taken him six months to research and write, and which, had he been able to deliver it, would have earned him the exalted title of *Doctor,* as in *Doctor* Callejas. Instead, in the courtroom of Lago Agrio he is referred to as mere advocate, a smaller man, *Abogado* Fajardo.

A few months later, his best friend was killed. He was a taxi driver and one of the eight men who had helped Fajardo financially, to get through law school. He was shot four times, and his car was stolen. The police did not investigate.

Sometimes Fajardo was followed, by whom he did not know. Fajardo tried to vary his routines. He did his work. He pressed on. Sunday, August 8, 2004, he spent as usual in Shushufindi, working at the human-rights office. That night he stayed quietly at home with his family. In the morning he rose early and caught the six-o'clock bus for Lago Agrio and the office of the Front. When he got there, about two hours later, he received a phone call informing him that his beloved brother—the one in the photo on the desk—had been murdered. Fajardo rode the bus back to Shushufindi, where the family had gathered in shock. This brother had been an evangelical minister, and he was a decent man, uninvolved with social issues, uninvolved with crime.

Killing Fajardo himself would have been risky, given his prominence in the region, but no such protections applied to those close to him. I said, "I am truly sorry I have to ask you this. Do you suspect he was killed because of you? As a threat? To frighten you off?"

Fajardo's Spanish is very clear. He said, "I would like to think that it was just a regular crime. Those days were the hardest in my life. The chief of military intelligence in Shushufindi told one of my brothers that I was being followed, and that the killers had made a mistake. I don't want to believe that. And I wouldn't if ... No, I just don't want to. But I do know that afterward I was followed. A lot."

For safety he sent his wife and daughter to live with his wife's parents in Sacha. He left his house for a small rented room above a store, next door to the room of a friend, and began to live like a hunted man, sleeping in a different location every night. His watchers were not subtle; they were thugs on motorcycles and in cars, and they wanted their presence known. The pressure continued well into 2005. One night armed men came to his rented room, when he was not there. His friend saw it all. They waited for a while in the hallway and then lurked outside until dawn. He later heard that on another occasion he escaped death only by chance, because two women happened to be with him. For six months he stayed off the streets and moved whenever possible by taxi. At work he tried never to be alone. He carried a gun. Every time he said good-bye to someone, he thought that it might be for the last time. Ultimately, though, he learned to live with the risk. He became fatalistic. He thought, Whatever God wants. Gradually he emerged onto the streets. For a while the pressure eased. The shock of his brother's death did not leave him, but he carried on as before.

He was deeply involved in the trial. In June 2005, he assumed the lead for the plaintiffs. His wife remained in Sacha, now also with an infant son. He sold the house in Shushufindi. He made statements to the press. Two years after the start of the trial, in October 2005, a judicial inspection just south of Lago Agrio was canceled at the last moment when the local military intelligence informed the judge that the Cofán Indians, a particularly docile group, were a threat to Chevron. The information was unsubstantiated and has never been shown to be even remotely true. Fajardo believed it was calculated to delay the inspection, because it was adjacent to Indian land, and many reporters had come to town to observe the show. Callejas denied that he knew anything about it. Fajardo and others on the legal team demanded an investigation, and were quietly passed a contract exposing the financial alliance between Chevron and the local military, embarrassing both of them badly. Soon afterward the pressure mounted again. Fajardo received a phone call in which an anonymous man predicted that a cleanup would indeed soon occur, and it would cleanse the land of people like him. Those were no small words along the Aguarico. Around the same time, a leader of the Front, Luis Yanza, was repeatedly threatened, as was his family. Up in Quito, the law offices of an associated attorney were burglarized—and the only things that disappeared were computers and backup files. The spokesperson for the legal team, a woman named Guadalupe De Heredia, came under a sustained assault while driving with her daughter on a steep mountain road. An S.U.V. with dark windows and no plates tried repeatedly to force her over the side, and desisted only when other vehicles appeared on the scene. A friend of De Heredia's was mistaken for her in front of De Heredia's house and brutally assaulted by men who then drove away, again in a vehicle with dark windows and no plates. The legal team appealed to international commissions on human

rights, including of the United Nations, and the commissions responded with pro forma requests that the Ecuadorean government provide protection.

The government? Which part of it? In the summer of 2006, a case was opened in the office of the public prosecutor in Shushufindi, charging Fajardo himself with terrorism and sabotage. Others were charged at the same time. Fajardo was said to be their mastermind. Arrest warrants had still not been issued several months later, when we met, but the threat was hanging over Fajardo's head. He seemed just to mix it in with all the other threats.

South of Shushufindi one day, I came by chance upon a settler who lived in an unusually solid house near an oil well long inactive. He was a middle-aged man with shoulders squared by heavy labor, and was wary at first, because in recent years North Americans have been rare. As we talked, he gradually opened up. He had lived most of his life in that house, which had been built by his father in the 1970s, and expanded by the generation that followed. I asked him how things were for him now. He showed me a plastic cistern that he had recently acquired, and said that he hoped to fill it with clean water, if he could find it somewhere, maybe out in the forest. This was his big project and hope: he would do this for his children. He said that in the last few years alone he had lost four family members to cancer. He had no doubt that pollution was the cause, though he knew nothing about the relevant medicine or science. I noticed that he had an outhouse whose door was ajar, and a toilet in there without any sort of plumbing. I did not ask him about the water his children now drank, but I am reasonably sure that it contained fecal matter. He himself did not seem well, and he moved with difficulty, as if he were in pain. I feared that perhaps he too had developed cancer. But when I delicately inquired, he said that he had just been kicked by a cow. If I were a paid consultant reacting to the epidemiological studies, and open to exploring alternatives to petroleum-induced ill health, it would have been a moment to repeat anecdotally, and a reminder meanwhile to bear down with questions about cancer. These dead, were they smokers, did they drink, did they X-ray welds on the pipelines? Did they handle solvents, or spray for weeds? Wait! Did they ever work in a chemical factory, live in an industrial zone, pump gas in Quito, or peddle goods in heavy traffic? By chance were any of them flight attendants? Was there a history of cancer in the family before? If it was cervical cancer they had, were they promiscuous? Were they obese? No? O.K., then how well did you really know them?

But these questions might give the wrong idea. In fact, there is no evidence that Chevron (or Texaco, before it) has ever directly inquired into the health of the residents by interviewing them or delving into their medical records, however meager such records are. Not during the 30 years of operations, not during the 10 years of legal maneuvering in New York, not during the 4 years of the trial so far. Not once. It has conducted what it calls "health-risk assessments" by extrapolating exclusively from its own analysis of its own soil samples taken during the partisan sampling wars of the judicial inspections, and in conclusion has issued a carefully worded statement that "current drinking water and soils that were previously remediated by Texpet do not present a significant oil-related health threat to local residents." For clarity, the soils it refers to as remediated are only those at the waste-pit sites that Texaco agreed to clean up.

Instead of funding an independent, peer-reviewed epidemiological study in order to seek new knowledge, Chevron has publicized or funded critiques of the few such studies that have actually been conducted, in an attempt to discredit them. The epidemiological studies are extremely thin, but they raise the possibility that the residents of the concession area suffer from abnormally high rates of cancer, childhood leukemia, miscarriages, gastritis, skin fungi and irritations, and a host of lesser medical problems. Admittedly the studies are incomplete, and based on a paucity of data, but would seem to indicate at the very least the need for the sort of serious inquiry that so far has not been done. The truth is that neither Chevron nor the plaintiffs have a solid basis for the claims they make about the residents' health or the legacy of Texaco. It would be conservative to assume, however, that there may be genuine problems, given the known toxicity of crude oil, and some of the associated materials and waste products, and evidence so obvious on the ground of widespread

contamination, whether it is Texaco's fault or not.

To get a sense for a place it is essential to walk the ground and poke around, unencumbered by itineraries and expectations. The settler led me down a short muddy trail to the waste pits from the old oil well. There were three of them there. One lay open to the sky in close to its original condition—a pond of thick, black, evil-looking liquid in which somehow a bird had just drowned. We walked along a dike to where liquid from an old siphon pipe still trickled down a slope and into a small stream below. The two other pits lay a little farther on. They were covered with dirt and overgrown by grasses. In places the wastes oozed up from below and formed asphalt patties that were hard on top and gooey on the underside. The area was suffering from a drought.

The settler noted that in the rains the pit oozed more actively. He was a simple man, without an obvious agenda. He said, "A year ago, men from Texaco came to take samples, and when they did, they went deep, like they were trying to poke all the way through and get samples from the dirt underneath. But they came up with a lot of oil anyway."

By "Texaco" he clearly meant Chevron, which in the region is still widely referred to by the old name. I asked him, "What did they say?"

"I think they were surprised. So they said to me, 'Well, this is not our fault. Yes, there is oil here, but it is not our fault. This was done by Petroecuador after we left.'

"And I said, 'No no, I lived here then. This oil was dumped in 1982 by Texaco—I remember. And later it was supposed to be cleaned up. They came in here and said they cleaned it up, but all they did was shove dirt on top. So you see, why are you talking about Petroecuador? It was Texaco all along.'"

With that the Chevron men, as he described the scene, got in their truck and drove away. The settler had no idea what they did with the samples, or what the samples contained.

Were Chevron to settle out of court, it could probably get away for a lot less than the $6 billion the plaintiffs are seeking. And the truth is that Chevron could afford the bill, which would be spent over a decade or more. In 2005, a single year, Chevron posted earnings of $193.6 billion and cleared $14.1 billion in profit. The first figure is more than six times the entire gross domestic product of Ecuador. But Chevron shows no sign of giving up.

Fajardo said, "One of the problems with modern society is that it places more importance on things that have a price than on things that have a value. Breathing clean air, for instance, or having clean water in the rivers, or having legal rights—these are things that don't have a price but have a huge value. Oil does have a price, but its value is much less. And sometimes we make the mistake."

One morning I drove to Lago Agrio No. 2, a well that had been drilled in 1967 and went active a few years later when the pipelines came in. Over the following 20 years it produced five million barrels of crude and made a fortune now residing in California. Eventually it was shut down and stripped of its machinery and pipes; it was nothing at this point but a leveled clearing in the forest, past a hamlet of settlers, at the end of a dirt road. Woodward-Clyde remediated its pits in 1996. Apparently, a subcontractor took the waste, dumped it in the forest, covered over the scar with 150 truckloads of red dirt, and planted 31 trees at intervals of nine feet. A T.P.H. of 5,000 or less? You bet. Lago Agrio No. 2 passed the test with flying colors, and the government of Ecuador did not challenge the results. Nine years later the circus came to the site: during the judicial inspection, in November 2005, the plaintiffs found contamination off the scale. In the remediated pit No. 1, for instance, they measured a T.P.H. of 324,771. They also measured levels of dangerous polycyclic aromatic

hydrocarbons (P.A.H.) more than four times greater than present Ecuadorean standards, and of excessive levels of carcinogenic chromium 6, one of the additives used in well maintenance. Chevron found much less. When it measured for T.P.H., it came up with a value of only about 960, indicating that the remediation had been performed extremely well.

I got out of my truck and went down into the forest, chasing the roar of a chain saw. It was an old man, cutting wood; he turned out to be the original settler. He took me to see what had happened to his land, and to the pits that were said to have been remediated. The 31 trees were stunted or dead, and oil seeped through the dirt all around. The old siphon pipe was there, as filthy as ever, and now sheltering a wasps' nest. He said, "If you go down two feet, you'll find nothing but oil and drilling muds." We followed a stream wasted by oil and completely dead. That stream led to a larger one, where the only fish that survive are tough, scrawny things that taste of diesel when they're fried. The settler said, "I used to have 50 acres for grazing. But then my livestock would emerge from the forest all covered in oil. They didn't die, but they wouldn't fatten up anymore, or give milk, and they aborted too. They drank this water. It's kind of salty, and they got poisoned and sick. So I lost all my livestock. When I complained to Texaco, this gringo said, 'Go complain to your government, not to us.'"

I said, "And did you go to the government?"

"What government? How am I supposed to go to the government?"

I asked him about Petroecuador and re-injection. He said, "Now finally they're doing something. But what are they going to do? There's just too much pollution. This used to be a paradise. A real paradise. The waters were clear and full of fish. We used to see all sorts of wild animals. Birds, parrots, and everything. It was beautiful. A paradise. But then it was all gone. The oil company came. And we have to admit that we have destroyed a lot of it, too."

I said, "How far do you have to go to see paradise now?"

"Far away."

"But if we just start walking that way, how long would it be?"

He said, "Very long," and meant forever.

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