



Amazon pollution case could cost Chevron billions

By FRANK BAJAK – Dec 20, 2008

LAGO AGRIO, Ecuador (AP) — When the sun beats particularly hot on this land in the middle of the jungle, the roads sweat petroleum. A Rhode Island-sized expanse of what was once pristine Amazon rainforest is crisscrossed with oil wells and pipeline grids built by Texaco Inc. a generation ago.

And for the past 15 years, a class-action lawsuit has been winding its way through the courts on behalf of the more than 125,000 people who drink, bathe, fish and wash their clothes in tainted headwaters of the Amazon River.

Now a single judge is expected to rule in the case in 2009 from a ramshackle courtroom in this northern frontier town. Statements from a court-appointed expert suggest Chevron Corp. — which bought Texaco in 2001 — will be held responsible for the many oil spills and dumping of wastewater. If Chevron loses, it could be ordered to pay up to \$27.3 billion in damages, though an appeal would be likely.

The expert, geological engineer Richard Cabrera, largely accepts plaintiffs' claims that Texaco left a mess when it left in the early 1990s. He is recommending damages based partly on his calculation of 1,401 pollution-caused cancer deaths.

Chevron does not deny "the presence of pollution and we don't deny that there were impacts," says spokesman Kent Robertson. But Chevron contends a 1998 agreement that Texaco signed with Ecuador, after spending \$40 million on remediation, absolves it of any legal responsibility. It says, and few dispute, that its former partner, state oil company Petroecuador, kept polluting after Texaco departed.

When Donald Moncayo was a kid, he remembers, Texaco soaked the dirt thoroughfares it cut through the jungle with crude to keep dust down.

"We would run on roads they coated with oil," he says. "We went to sleep with our feet black. You could only remove it with gasoline."

Pipelines across the area connected the wells to the 313-mile Trans-Ecuadorean Pipeline built by Texaco to carry crude to the Pacific. Moncayo, 35, can't remember when the pipelines weren't springing leaks.

His mother died in 1987 from an internal infection he blames on oil contamination. Now he works for the plaintiffs, taking visitors on "toxic tours."

One of the first stops is a fresh spill. It's little more than 50 gallons, dark and goeey. Bigger spills have smothered crops, choked birds, killed cattle.

In the early days of the oil bonanza, Ecuador's government encouraged people to settle in the oil patch by offering free homesteads. But it provided almost no services — hardly any of the area's drinking water is treated.

Ecuadorean governments reaped the wealth of Texaco's jungle project, with gross domestic product more than tripling from 1972 to 1977. By the time Texaco departed, the consortium it headed had extracted nearly 1.5 billion barrels of oil from more than 350 wells.

In the meantime, Ecuadorean oil field workers slathered the crude on their legs, believing it cured rheumatism. Some coated their scalps because American supervisors told them the crude warded off baldness, they said.

"They were pulling our legs," recalls Margarita Yopez, a former Texaco social worker who believes such careless exposure to crude killed some of her colleagues. "What did we know? They were the experts."

The plaintiffs say Texaco saved \$8-\$10 a barrel by dumping some 18 billion gallons of the wastewater from drilling and extraction into waste pits instead of re-injecting it back deep into the ground. The more than 1,000 waste pits were not lined, so the toxins seeped into the groundwater, they say.

The plaintiffs also allege the company poisoned the air by burning off natural gas and set fire to solid wastes during the 1990s remediation. They say they found a July 1972 Texaco memo that orders the company's acting manager in Ecuador to report only major spills and destroy "all previous reports" on spills.

One of the memo's two authors is Robert M. Bischoff, then Texaco's chief for Latin America. He retired in 1984.

"I don't remember that," Bischoff, 89, told the AP by phone from Florida. "In all my years with Texaco, and I was with them 40 years, I was never asked to do anything that I'd be ashamed of."

If the plaintiffs win, according to their lead attorney, Pablo Fajardo, residents will finally get a potable water distribution system and basic health care. But should Chevron have to underwrite the creation of services that no government bothered to offer?

"It's a bit of opportunism and a bit of populism rolled into one," says Robertson.

Ironically, it was Texaco that first pushed to get the case heard in Ecuador. It argued that a federal court in New York — where Texaco was based — was not the appropriate venue, and that Ecuador's judicial system was reliable and independent. The New York judge threw the case out and in 2003 it was refiled in Lago Agrio.

But Rafael Correa was elected president in 2006, and everything changed. Chevron says it can't get a fair trial as long as he is running Ecuador.

Last year, Correa led reporters on a tour of former drilling sites, declaring there had been no cleanup. The leftist U.S.-trained economist has expelled foreign oil companies that won't agree to his profit-sharing terms. And in August, Ecuador ordered a criminal investigation of two longtime Chevron executives and seven former government officials for allegedly falsifying the documents that endorsed Texaco's remediation.

Chevron also complains vehemently that court-appointed expert Cabrera is a stooge of the plaintiffs. "He's put blinders on and says all conditions today are attributable to Chevron," says Robertson.

The presiding judge, Juan Evangelista Nunez, denies he'd bow to political pressure.

"The only truth that is constant in this case is that there will be no political influence of any kind here," he told the AP.

One stop on Moncayo's "toxic tour" is Campo Aguatico 2, a well he says was sealed in 1985. Its three wastewater pits were topped off with dirt during Texaco's cleanup.

Moncayo plunges a surgical glove-sheathed hand into the muck of one pit. He pulls up rancid, oil-coated leaves from surrounding saplings. A pipe juts out of another pit, dripping what looks like crystalline water that reeks of petroleum hydrocarbons.

Cabrera's 14-member team of scientists and engineers found petroleum hydrocarbons at levels deemed unsafe by national standards in 44 percent of the water samples it tested. It found cadmium, barium, lead and other heavy metals in the mud of wastewater pits, and said 80 percent require cleanup.

The team cited scientific studies that found cancer levels nearly twice Ecuador's norm, with stomach and uterine cancer the most common followed by leukemia. Chevron disputes the findings as based on unrepresentative samples and says the region's cancer rates are no higher than the countrywide norm.

The chief doctor in Shushufindi, Fajardo's hometown, is troubled that more comprehensive studies haven't been done. Dr. Jorge Herrera says spontaneous abortions, respiratory infections, skin rashes and chronic gastritis are common.

The "toxic tour" stops to pick up Carmen Perez, a 57-year-old public health worker who lives about 455 yards from a capped well — No. 56, La Primavera. The well water her family drinks has an acrid taste, she says, and her five children constantly suffer gastric pain.

"What we have here is slow but certain death," Perez says as she pokes with a stick around the edge of an open wastewater pond.

So why don't they move away?

"We can't afford to."

Walking away from the pond, the tourists look up at plump guayaba fruits hanging from a tree. They look tempting.

"Better not," says Moncayo.

Associated Press writer Jeanneth Valdivieso in Quito, Ecuador, contributed to this report.