

HONORABLE PRESIDENT OF THE SUPERIOR COURT OF JUSTICE OF NUEVA LOJA:

I, Dr. Adolfo Callejas Ribadeneira, as an Attorney for CHEVRONTEXACO CORPORATION company, within lawsuit No. 002-2003 for damages brought by Dr. Alberto Wray as Judicial Attorney for Mrs. María Aguinda et. al., hereby respectfully state:

1. Through procedural order issued by your Honor on July 15, 2004 at 02:00 p.m., you instructed that inspections of SACHA field wells numbers 06 and 21 shall take place on Wednesday and Thursday August 18 and 19, 2004.
2. The Plaintiffs are conducting a campaign through the media, with an aim to shape a misleading public opinion in general, and in people living in the area where these first two inspections are to take place, in particular, regarding the current status and condition of the wells subject to such inspections. This is how “*El Comercio*” newspaper reflected this in its issue of Saturday August 7, 2004, page A-2, First Section – Current Events – which is herein attached in four pages under the heading “*El Caso Chevron-Texaco Con Líos Por Los Peritos*” [Chevron-Texaco Case in Trouble Because of Experts,] as textually transcribed as follows: “Some men wearing helmets, dark glasses and jean suits thoroughly go through the remote farms laying on this area. **Their attention is focused on the footprints of three crude oil pits which, according to the neighborhood, were plugged with rocky materials and clay.**” A number of **furtive testing** are being made, drills are being installed, crude samples are being taken, and even simulations are being carried out there....” “This situation does not go unnoticed for the 13 families living on this neighborhood located far away from La Joya de Los Sachas downtown. Children and younger use their free time to go through the sites being inspected by technicians. **They install drills and search for oil within the weeds**”, as reported by Jose N., a young man who went through that place after technicians left...”
3. We were greatly worried about that information, which would have also certainly concerned your Honor, Mr. President, since it publicly showed an obviously illegal activity by technical teams retained by Plaintiffs, who did not merely performed the analyses required for defending their client’s interests. Rather, they have undertaken a “furtive” task for preparing the places to be inspected by you, thereby radically altering their original status, and for their primary purpose of misleading the justice and generating a publicity “impact” for their interests, but based on the illegal manipulation of evidence. This should not be admitted because it is illegal, and CHEVRONTEXACO CORPORATION rejects it, and since this is also disrespectful for your HONOR’s Authority.
4. To corroborate assertions contained in “*El Comercio*” newspaper article above, and in order for your Honor to see the way in which the area surrounding SACHA-6 well was manipulated, four photographs showing the original conditions in SACHA-6 well as of January 2004 are herein attached in two pages, on the one hand,.....

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and, in three pages, six photographs recently taken, numbered in the following order: 1-A, a photograph showing one of the huge holes found in the area which remains open there since the day in which it was drilled to date. Whether this site was manipulated by pouring crude oil or any other oil-related chemicals into it is unknown, whose very existence pose dangers for people walking through this area since they could fall into them and suffer severe body injuries; 1-B, a photograph showing another hole similar to the former one, with the only difference being that it was irresponsibly camouflaged with leaves, whose evilly-disposed intentions are also unknown, and whose very presence puts people walking through that sector in risk of falling into it; 2-A, a photograph clearly showing one of the trails which was certainly opened there for your Honor to be taken up to a site (2-B) preset and also probably somehow manipulated. As you may see, it contains a cement plate with a crystal-clear red spot on its middle part, which never existed there and is more clearly appreciated from photographs 3-A and 3-B showing labels and dates such as “PZ:06 N/G 15-07-04;” we have not been able to find out what there is beneath those cement plates, but it is also evident that they also constitute an unilateral preparation activity on this site, so that your Honor would see what is underneath them, whose contents are only known by their authors; photographs 4 and 5 also show cement plates put on SACHA-21 and SACHA-53 wells, respectively, which leads to assume that those places were also prepared for Plaintiffs’ self-interests prior to their respective inspections.

5. It will not go unnoticed for your Honor’s opinion that those Plaintiffs’ “furtive” actions by themselves constitute a severe environment negative impact whose magnitude is unknown, since even with their “drills” they not only could be perturbing the remediation works performed by TEXACO PETROLEUM COMPANY, but also damaging natural conditions such as soil and underground water.
6. Article 246 of the Civil Procedure Code defines a judicial inspection as “. . . an examination or recognition conducted by the Judge on the subject-matter under litigation or controversy leading to judge on its status and circumstances.”

Here, the “status and circumstances” of the above-mentioned sites have been unlawfully altered, which makes it impossible to comply with any procedural steps therewith evidentiary force.

7. The *Diccionario de Derecho Procesal Civil* by Dr. Eduardo Pallares, 10<sup>th</sup> edition, published by Editorial Porrúa S.A., Mexico 1977, p. 419 reads on that respect as follows: “*La inspección judicial es un acto jurisdiccional que tiene por objeto que el Juez tenga un conocimiento directo y sensible de alguna cosa o persona relacionada con el litigio.*” [A judicial inspection is a jurisdictional act aimed at allowing the Judge to learn any direct and sensible knowledge on something or someone related to the litigation]

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Your Honor will not be able to acquire “any direct and sensible knowledge” on the sites that were prepared either, since what your Honor will “know” is what was manipulated and altered over the last few days.

8. It may be said that the judicial inspection is one of the most important test because it puts the Judge in direct contact with the subject-matter constituting the evidence, which will also not be the case in SACHA-06, SACHA-21, SACHA-53 and the other places which could be possibly being prepared by Plaintiffs.
9. Plaintiffs’ “furtively” manipulating as they please the sites surrounding SACHA-6, SACHA-21 and SACHA-53, and probably other additional sites, as shown by *El Comercio* newspaper’s article, and the photographs herein attached, as a clearly arbitrary action, has lessened the value of the very procedural step’s object and nature, thereby constituting a violation of rights to legal security and the due process of law provided for in Article 23(26) and (27) of Ecuador’s Political Constitution, for the sites prepared by Plaintiffs may not be validly inspected by your Honor. Should my request below is ignored, I claim the nullity of any procedural steps because it is self-evident that my client’s legitimate right to its defense is also being harmed.
10. By manipulating the wells, Plaintiffs grossly purport to find out environmental damages and attribute unlawful responsibilities to my Client so that the administration of Justice orders it to pay multimillion compensations. Such attitudes and proceedings do not only constitute a mockery of the legal system in force but also imply a lack of respect to your Authority and a severe safety risk.
11. Additionally, procedures used by Plaintiffs in drilling holes at the inspection area, as already shown, are an invitation or call for sabotage by any concerned persons, who have been persuaded that they will be given large compensations whenever your Honor would find over there what Plaintiffs certainly purport when preparing the sites.
12. There is physical evidence of intervention and/or preparation and/or alteration of evidence. Such physical evidence includes, without limiting to, one or several of the following evidence, which as reported by the press have already occurred in various of the sites your Honor is to inspect, resulting from “furtive” actions carried out by the plaintiffs:
  - 12.1 Soil drilling performed using drills or any other mechanical means;
  - 12.2 Vegetation clearing showing the patent intention of only acceding to places where a site was prepared;
  - 12.3 Trails left from hauling materials, equipment, instrument, chemical and others;

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- 12.4 Marking the boundaries with milestones or signaling specific sites in the area to be inspected, or any other signaling indicating prior presence in a concrete area;
  - 12.5 Other evidence reflecting any kind of prior “handling” of a given location before a judicial inspection.
13. Your Honor, on the other hand, and as shown in “*El Comercio*” newspaper article above, the setting for inspections will not be the appropriate one either from a procedural view or for the safety of those who will participate in the inspections. In fact, in such press article there is a paragraph which is textually transcribed, “. . . In communities of the Parish San Carlos (Sacha), on November 18 (Shushufindi,) a number of groups supporting peasants and people harmed by wells to be inspected. . .”

I consider that, in addition to the motives already listed above, the latter, *i.e.* the lack of safety as reflected in a high likelihood that crowd coming down generates an uncontrollable and dangerous chaotic condition resulting from the negative publicity continuously made by Plaintiffs, the Amazon Defense Alliance, and ecologist organizations, I can assert that there will be serious risks for the integrity of all those who will be involved in such procedural steps.

14. PETITIONS

For reasons above, I respectfully request your Honor to resolve as soon as possible on the petitions below:

- 14.1 To issue an official instruction from your Honor, Mr. President, to cease any site preparation activities by Plaintiffs or entities and/or persons supporting them, particularly including, but not limiting to, the following items implying an evident risk for harming the remediation works performed by Texaco Petroleum Company from 1996 to 1998 in various of the sites to be inspected:
  - 14.1.1 Conducting non-superficial drillings which could put underground water at risk of being polluted.
  - 14.1.2 Creating safety risks for people by opening shallow holes of considerable diameter.
  - 14.1.3 Creating holes on inspection areas that may lead to commit sabotage events.
  - 14.1.4 Putting milestones or marks on the surface.
- 14.2 To establish, through an impartial investigation ordered by your Honor, the scope of site preparation and manipulation already carried out particularly in SA-06, SA-21, and SA-53 an on any other sites.-----

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to be subsequently identified for inspection which may have also been prepared for judicial inspections.

The legal and practical reasons described above allow me to request, your Honor, Mr. President, to consider the possibility of, or the need for, staying the performance of judicial inspections until the order requested in paragraph 14.1 above is issued, and also until the indispensable safety and appropriate control conditions exist for conducting inspections, which shall be corroborated by any such relevant organisms of police power as you may deem to be necessary.

Finally, in the event not admitted that inspections already ordered are conducted, I hereby claim their nullity for the reasons already expressed, and deny any imputations thereon made against CHEVRONTEXACO CORPORATION.

IN WITNESS WHEREOF I have put my name and sign as an Attorney.

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DR. ADOLFO CALLEJAS RIBADENEIRA  
LAWYER  
Professional Record No. 1138 – C.A.P.

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Received in Nueva Loja: August 17, 2004, at 05:30 p.m. in **3** Copies  
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