

WITNESS STATEMENT OF ANN MAEST

I, Ann Maest, of United States citizenship, and residing in Boulder, Colorado, declare under penalty of perjury as follows:

1. I am a Managing Scientist at Stratus Consulting, Inc. (“Stratus”), where I have worked intermittently since 1993. Stratus is an environmental consulting firm located in Boulder, Colorado. Stratus was hired to work on projects related to the case of *Maria Aguinda y otros v. Chevron Corporation* in Lago Agrio, Ecuador (the “Lago Agrio Litigation”) by Steven Donziger and Kohn, Swift & Graf through a contract with Kohn, Swift & Graf in August of 2007, and I began working on the project as a Stratus employee in 2007. Prior to that, between 2006 and 2007, I worked on the “Ecuador Project” on behalf of E-Tech.

**INITIAL RETENTION AND ROLE IN THE CASE
WITH E-TECH INTERNATIONAL**

2. My initial contact with Steven Donziger was in or around November 2005 through the organization I was working with at the time, E-Tech. E-Tech is a nonprofit organization providing environmental technical consulting support to communities in less industrialized countries. My first discussion with Steven Donziger was during a conference call on November 29, 2005. Kohn, Swift & Graf hired E-Tech and me to do environmental consulting in connection with the Lago Agrio Litigation. Donziger directed our work on behalf of Kohn, Swift & Graf.

3. I formally began working for Donziger on behalf of the Lago Agrio Plaintiffs (LAPs) in the Lago Agrio Litigation in or around January 2006, providing environmental consulting services. In that role, I took direction from Donziger, who described himself as the lead United States lawyer for the LAPs. Donziger told me what tasks he wanted me to perform. He

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edited and approved drafts of statements or reports I would issue, and otherwise directed all of my work and the work of E-Tech.

4. My initial role in the case was as a technical consultant on behalf of the LAPs, and I publicly appeared in the matter by issuing reports on behalf of the LAPs. At Donziger's direction, I authored a report in conjunction with William Powers and Mark Quarles titled "How Chevron's Sampling and Analysis Methods Minimizes Evidence of Contamination" dated March 8, 2006. This report was just an initial assessment based on incomplete information. I never performed a follow-up analysis as the judicial inspections progressed.

**THE GLOBAL INSPECTION PROJECT, THE MARCH 2007
MEETINGS IN ECUADOR AND *CRUDE* FILMING**

5. In March 2007, I traveled to Ecuador to meet with the LAPs' legal and technical team and Donziger. Also on this trip were Charles Champ and Richard ("Dick") Kamp. We were in Ecuador on this trip from March 2 to March 6, 2007. The purpose of this trip as described to me by Donziger was to show Charles Champ around the concession and bring him up to speed.

6. During this trip, on March 3, 2007, at the LAPs' representatives offices in Quito, Ecuador (also known as the "Selva Viva" offices), I participated in a lengthy strategy meeting of the LAPs' team about preparation of the upcoming global expert report.

7. The March 3rd meeting and other meetings in which I was involved with Donziger were videotaped by the *Crude* film crew. Based on my personal observations, the film crew took direction from Donziger regarding what to film and when to turn their cameras on and off. I saw the *Crude* film crew follow Donziger's instructions on many occasions.

8. Among those attending the March 3, 2007 planning meeting in Quito were Donziger, Pablo Fajardo, Luis Yanza, Fernando Reyes, and other consultants and lawyers for the LAPs. Also attending the meeting was Richard Cabrera, whom Pablo Fajardo referred to as a “perito,” or expert. Donziger told me prior to the meeting that Cabrera would be there, and he was hoping Cabrera would be appointed as the Ecuadorian Court’s expert tasked with performing the global damage assessment requested by the LAPs.

9. It was clear from the presentations and from my discussions with people at the meeting that the LAPs planned to conduct the global damages assessment. In particular, I understood Fajardo’s statements captured in the outtake from *Crude*: “[a]nd here is where we do want the support of our entire technical team . . . of experts, scientists, attorneys, political scientists, so that all of us will contribute to that report—in other words—you see . . . the work isn’t going to be the expert’s. All of us bear the burden,” to mean that the LAPs’ lawyers and consultants would contribute to Cabrera’s work and report.

10. I reviewed the Declaration of the Fernando Reyes regarding the March 3, 2007 meeting. Mr. Reyes’s recollections of the events for which we both were present are consistent with my own, except that I do not recall Mr. Champ’s presentation.

11. During a lunch with Kamp, Donziger and Charles Champ on March 4, 2007, Kamp told Donziger that having the perito at the meeting was “bizarre.” Donziger told Kamp not to talk about it and said, “That’s the way it works.”

12. In discussions around the time of the March 2007 meetings, Donziger made it clear to me that it was vital that the coordination between the LAPs and Cabrera be kept secret.

13. At the March 4, 2007, meeting, Kamp, Champ and I raised issues with Donziger about the environmental data we had seen. In particular, I found in my analysis of the data that there was no evidence that contamination had migrated away from the pits. As I told Donziger, “all the reports are saying it’s [*i.e.*, groundwater contamination] just at the pits and the stations and nothing has spread anywhere at all.” And when Champ told Donziger that “there is not enough information on that groundwater” and that “the one hole in the remediation is the water,” Donziger instructed the camera crew capturing the conversation to stop filming, stating, “[T]here’s another point I got to make . . . to these guys, but I can’t get this on camera.”

14. The only water sampling evidence I saw from the LAPs’ team involved testing water from hand auger samples taken in or near pits. This is not a proper methodology for collecting groundwater samples unless the soil particles are removed by filtering or by allowing them to settle out. I am aware that at least some of the LAPs’ sampling results were unreliable because of the presence of soil particles in the samples. I requested from Donziger and the Quito team on multiple occasions that additional groundwater sampling be conducted but never received approval for that sampling. At no time while working on the Ecuador Project did I see any data supporting a finding of groundwater contamination from TexPet operations away from the pits.

15. When I told Donziger that there was a significant gap in the groundwater data, he suggested that we could “extrapolate” to ascribe contamination to areas where no sampling had been done and “get money for it.” He then said that all of this “for the court is just smoke and mirrors and bullshit.” Donziger’s statements on film focusing on “getting money” and using and misusing facts and data to support whatever position he wanted to take in the litigation are representative of Donziger’s statements on these subjects.

16. It was my impression that Donziger was not interested in the results of scientific evaluations of the area unless he could use them to attack Chevron. Donziger seemed interested in increasing the damage claims as high as possible.

17. When Champ told Donziger during a March 4, 2007 meeting that we needed to be totally transparent with Chevron in terms of what sampling was to be conducted and what the sampling data was showing, Donziger informed us that his goal was that “they don’t know shit.” To achieve this goal, Donziger indicated to me to keep my involvement with Cabrera and the global damages assessment, and that of the other LAPs’ consultants and lawyers, secret. I followed his instructions in that regard at all times while I was working on the Ecuador Project.

DIRECTION AND CONTROL BY DONZIGER

18. In conversations with Donziger about the scope of the work that would need to be done for a global damages assessment, it became apparent that a larger consulting firm would be needed. I had previously worked for Stratus Consulting and suggested to Donziger that he retain them for this work.

19. Donziger first contacted Stratus on or about March 27, 2007, via a conference call I arranged that included Donziger, David Chapman, David Mills, and me. Donziger then met with Stratus on April 26, 2007, at Stratus’ offices in Boulder, Colorado. A portion of this meeting was filmed by the *Crude* film crew. Joshua Lipton, Douglas Beltman, David Chapman, Preston Sowell, and I attended the meeting with Donziger. At that meeting, Donziger described Stratus’ work as the preparation of a damage assessment for the Lago Agrio litigation. Donziger described the specific elements of damages that he wanted to include in the assessment using an April 22, 2007 memorandum that he had previously provided to Joshua Lipton. In a prior email to

Joshua Lipton, which I have reviewed, Donziger stated that the damages claim would probably be “many billions of dollars[.]” At some point in time, Donziger said damages against Chevron could be in the range of \$5-6 billion dollars.

20. I am aware that Stratus entered into a retention agreement with Kohn, Swift & Graf on August 20, 2007.

21. Stratus began working on the Ecuador Project in August of 2007 after first meeting with Donziger on April 27, 2007 in Stratus’s Boulder, Colorado office. I had previously taken direction for my work on the project from Donziger, and, from that point forward, Stratus took its direction for its work on the Ecuador Project from Donziger, who described himself as the lead American lawyer for the LAPs. Donziger indicated what tasks he wanted Stratus to perform, edited and approved drafts of statements or reports Stratus would issue, and assigned, approved, and directed all of Stratus’ work on the Ecuador Project. It is my understanding that from Stratus’s retention in August 2007 until its work on the matter ceased, Donziger was Stratus’s principal point of contact for its work on the Ecuador Project, and he directed work on behalf of Kohn, Swift & Graf.

22. At no time was my work on the Ecuador Project directed by any of the named plaintiffs in the Lago Agrio Litigation, nor did I ever have any contact with those named plaintiffs or receive an instruction that I understood to come directly from any of the named plaintiffs. I have had no indication that any of those named plaintiffs ever reviewed anything Stratus or I prepared in connection with the Ecuador Project. Rather, to the extent I received directions from Ecuadorians, those directions came via individuals such as Pablo Fajardo, who I understood to be also representing the LAPs.

23. Based on my experience during my time as one of the LAPs' environmental consultants, Donziger exercised near complete control over major decisions of strategy for the Ecuador Project, particularly as related to our work, the media, and public relations. Aside from the issue of funding, I do not recall an instance in which Donziger stated a need to get prior approval from any other individual for a course of action. While others, including Pablo Fajardo, participated in decisionmaking regarding the litigation, it was apparent to me that those in the LAPs' Quito office, including Pablo Fajardo, looked to Donziger for direction.

24. Regarding budgeting and funding, it was apparent that Donziger had a significant degree of control, but that for large expenditures, he initially reported to Joe Kohn. Nonetheless, we at Stratus understood Donziger to have control of strategy decisions.

DONZIGER INSTRUCTIONS REGARDING SECRECY

25. Donziger insisted at all times that all aspects of Stratus' work, including Stratus' meetings with Cabrera, their involvement in drafting the Cabrera Report and the November 2008 Cabrera Response to the LAPs' September 2008 comments or objections regarding the Cabrera Report (the "Cabrera Response") remain absolutely secret.

CABRERA MEETINGS

26. Donziger asked Douglas Beltman and me to travel to Ecuador in early January 2008. During this trip, Douglas Beltman and I met with Richard Cabrera, Steven Donziger, Luis Villacreces, perhaps Pablo Fajardo and Luis Yanza, and others at the private residence of Juan Aulestia in Quito. Based on interactions between Cabrera, Donziger and Villacreces, they were

familiar with each other. No one was present from Chevron, and it was evident from the location and discussion that the meeting was meant to be secret.

27. Based on my two interactions with Cabrera and a review of his background, Cabrera lacked the qualifications and experience to prepare a multidisciplinary environmental damage assessment himself or to design such a report.

28. At no time did I ever see any indication or meet anyone I understood to be a member of Cabrera's independent team of experts. To the contrary, individuals that I am aware of who assisted in preparing the Cabrera Report and Cabrera Response were affiliated with or working at the direction of Donziger and the LAPs.

29. At no point during my time working on the Ecuador Project, including at the January 2008 meeting was there any suggestion that Cabrera was preparing his own report.

DRAFTING OF THE CABRERA REPORT AND ANNEXES

30. I have reviewed the witness statement of Douglas Beltman regarding drafting of the Cabrera Report and annexes. I am not aware of any facts or data that contradict any of his statements or conclusions. His recollection of the drafting process and related events are consistent with my own. I never discussed the substance of any part of the Cabrera Report or any annex with Richard Cabrera nor received any inquiry from him regarding that report. During the time of working on materials for the Cabrera Report, I never saw or heard any indications from Donziger, Fajardo, or any other member of the LAPs' team, or anyone else, that Chevron was given the opportunity to submit information or documents to Cabrera. In the many discussions of the drafting of the report, no one affiliated with the LAPs' team suggested that Chevron would be given

the opportunity to provide their own comments, documents, information, data, narratives, summaries, analyses, or reports to Cabrera.

31. In all the work Stratus performed, including the drafting of portions of the Cabrera Report, Donziger never instructed Stratus or me to conduct any analysis of the contamination in the former concession area caused by PetroEcuador, including recent spills by PetroEcuador. Donziger never told Stratus or me to attribute any of the contaminated soil samples or pits to PetroEcuador.

OVERARCHING ASSUMPTIONS OF THE CABRERA REPORT

32. Donziger directed Stratus not to take into account the ongoing remediation in the former concession area, which was known at the time as the “PEPDA” program, when developing the damages assessment.

33. I was aware of the Settlement Agreement and Release that existed between TexPet, Petroecuador and the Republic of Ecuador. I was also aware that pursuant to the Remedial Action Plan (“RAP”) that was part of that settlement, TexPet had agreed to remediate specified sites in the former concession area. The damages assessment in the Cabrera Report is not limited to only those sites that TexPet agreed to remediate in the RAP. To the contrary, the majority of the sites included in the Cabrera Report’s damages assessment are sites that were not TexPet’s responsibility to remediate pursuant to the RAP.

34. The Cabrera Report does not address whether the cleanup actions it recommends Chevron pay for were already being undertaken or contemplated by others or had been completed. Stratus and I were aware that PEPDA was remediating a number of pits in the former

concession area. Therefore, a number of the pits that the Cabrera Report finds require cleanup had already been remediated or were in the process of being remediated by PetroEcuador as part of the PEPDA program at the time the Cabrera Report was filed.

35. Donziger did not seem to be happy about the PEPDA program even though its purpose was to remediate the very petroleum pits that the LAPs and Donziger said were causing contamination. Donziger made it clear to me that it would not be good for the litigation if the area was cleaned up by PetroEcuador, or if people in the region were provided with better housing by other organizations.

36. An assumption of the Cabrera Report was that the soil cleanup levels identified by the LAP lawyers were the appropriate ones to use in the damages assessment. During my work on the Cabrera Report, I was aware that the total petroleum hydrocarbon (TPH) cleanup level in the former concession area used by Ecuador in 2008 for the PEPDA remediation was 2,500 ppm TPH. However, as Douglas Beltman indicated in a March 4, 2008 email to Juan Pablo Saenz “[s]omewhere along the line someone decided that the 1,000 mg/kg [equivalent to 1,000 ppm] TPH standard for ‘ecosistemas sensibles’ is the one to use for our case, and I’m trying to write up a justification for it.” I came to understand that Donziger and the LAP lawyers had decided that the 1,000 ppm standard should apply, and that they later decided that the cleanup level should be lowered from 1,000 ppm to 100 ppm. This resulted in a very large increase to the damage figure for soil clean-up.

37. Another overarching assumption provided to Stratus was the number of pits in the former concession area. The LAPs’ representatives provided us with a “pit inventory” that they created to use in conducting the damages assessment that listed 917 pits as having been

constructed by TexPet. We never verified the existence of the 917 pits shown on the inventory. Obviously, the pit count is a critical variable in determining the scope of any remediation. I have no independent basis to believe the pit count provided to us by the LAPs was accurate or reliable.

38. Pursuant Donziger's instructions, Stratus had to conduct its damages assessment work using only the data and information that was provided to us. Stratus was not allowed to collect the additional data that it thought was relevant to the assessment. The damages assessment in the Cabrera Report and Cabrera Response are based on many assumptions provided by Donziger and the LAPs' representatives that neither I nor Stratus know to be true or accurate. In addition, I have come to understand that the Cabrera process was tainted by Donziger and the LAPs' representatives. As a consequence, the damages assessment in the Cabrera Report and Cabrera Response are not reliable. I disavow the Cabrera Report and Cabrera Response, and they are not reliable bases for the Ecuadorian court to rely upon in rendering its judgment.

THE CABRERA NOVEMBER 2008 RESPONSE

39. The LAPs' comments on the Cabrera Report generally approve of the report but claim that "[t]he omissions we have been able to detect in Expert Richard Cabrera's Expert Report greatly favor the interests of the defendant, given that said omissions either minimize or fail to consider certain environmental damage and legislation that should definitely be taken into account in the evaluation." The comments, including the portions prepared by Stratus, do not disclose that the Cabrera Report was drafted by Stratus or the LAPs' representatives. With the comments the LAPs were literally commenting on their own work. For example, at Donziger's direction Stratus prepared the soil remediation cost estimate to the Cabrera Report of \$1.7B based on a remediation standard of 1,000 ppm of TPH. It then prepared comments claiming that "the

cleanup proposed by the Perito is inadequate, and it will not restore the environment to its original state before the environmental damage occurred” and “we consider 100 ppm TPH to be a much better cleanup level that will achieve an environmental restoration that is much closer to the conditions prior to the damage caused by Texaco, as instructed by the Court.” The text then states “the total cost to remediate soils to 100 ppm TPH should be \$2,743,000,000.” For context, Donziger had insisted on using a standard of 1,000 ppm even though the remediation level used by PEPDA is 2,500 ppm. He then insisted on further lowering that to 100 ppm in the Cabrera Response.

40. We began planning the LAPs’ comments on the Cabrera Report shortly after it was filed. Steven Donziger, Pablo Fajardo, Luis Yanza, Doug Beltman, Jen Peers, and I met in Boulder June 4-5, 2008, to discuss, among other things, the planned comments. Karen Hinton was also present on June 4th. I understood these comments to be a “formal response to the Court about the Expert’s Report.” Douglas Beltman communicated an extensive to-do list for the comments project. Douglas Beltman, David Mills, Jennifer Peers, and I all worked on portions of the text for the comments. We completed our work in the United States and sent our work on the comments to the LAPs’ team when completed. Stratus instructed Brian Lazar to alter the language of portions we had already drafted to sound “more like the Perito.” Stratus drafted portions of “Cabrera’s” responses to the LAPs comments throughout October and November 2008. I assumed that the portions of the Cabrera Response that Stratus was drafting would be filed with the Ecuadorian Court as if written by Cabrera.

41. The LAPs’ comments, including the portions prepared by Stratus, do not disclose that the Cabrera Report was drafted by Stratus or the LAPs.

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42. I understood that on September 16, 2008, the LAPs submitted their comments to “the Expert Report filed by Expert, Richard Cabrera Vega,” containing our work on the comments.

**DAMAGES CATEGORIES IN THE
CABRERA REPORT AND CABRERA RESPONSE**

43. I have reviewed the witness statement of Douglas Beltman regarding the damages categories in the Cabrera Report and Cabrera Response. I am not aware of any facts or data that contradict any of his statements or conclusions. As to the limited portions of the Cabrera Report and Cabrera Response I was involved in, I agree with and adopt Mr. Beltman’s statements and conclusions. As to the parts I was not involved in, I am not qualified to verify any of the alleged damages or proposed remedies in those portions of the Cabrera Report and Cabrera Response. I have no basis to believe that those damages or proposed remedies are valid or accurate. I have reviewed Mr. Beltman’s statements and have no reason to doubt his conclusion that the Cabrera damages assessment is tainted, is not supported by reliable information, and cannot support a valid damage claim. I therefore disavow the Cabrera Report and Cabrera Response.

THE STRATUS COMMENTS

44. Douglas Beltman drafted the Stratus Comments and they were signed by myself and 4 other Stratus scientists. By the time I signed the comments, it was apparent that Cabrera was not neutral. Because the Cabrera Report and Cabrera Response are not supported by reliable information and because I now understand that the Cabrera Process was tainted by Donziger and the LAPs’ representatives, I withdraw and disavow any endorsement of the Cabrera Report and Cabrera Response, including the December 1, 2008 Stratus comments.



SITE VISITS

45. Throughout the time I worked on the Ecuador Project, I only visited the Oriente on 3 or 4 occasions. In total, I have visited approximately 20-25 sites in the former concession area. Most of the sites I visited were chosen for me by Donziger or the LAPs' representatives. I do not know whether the visible surface conditions I saw at those sites are representative of all sites in the former concession. I do not have personal knowledge of whether the conditions I saw at those sites, including any pits or spills, were caused by the activities of PetroEcuador, TexPet or some other operator.

HAVOC LAB

46. I am aware that LAPs' experts during the judicial inspection utilized the facilities of the Havoc Lab. I personally visited Havoc Lab. Havoc Lab had two significant shortcomings related to its ability to measure polycyclic aromatic hydrocarbons (PAHs) and chromium VI (Cr(VI)) in samples. Havoc did not have the equipment needed to conduct determinations of individual PAHs and instead did a "total PAH" and divided it into individual PAHs. This methodology produces unreliable data. Therefore, any Havoc PAH values (total or individual) reported for soil or water are scientifically unsound and cannot be relied upon. In contrast, the method Chevron used for individual PAHs is reliable.

47. Additionally Havoc sent out samples for Cr(VI) determination (they did not have the equipment do perform them in-house). The holding time for Cr(VI) measurement in water samples is 24 hours, and it is highly unlikely that any water samples sent out for Cr(VI) analysis by Havoc were analyzed by another laboratory within the holding time. I do not know the name of the laboratory that Havoc sent Cr(VI) samples to and I do not know whether that laboratory

had the proper equipment or utilized proper methodologies. I thus have no basis for concluding that any of the Cr(VI) data submitted by the LAPs during the judicial inspections were valid.

48. I understand that in the judgment the court relied upon expert reports from the judicial inspections. Thus the comparisons between PAH and Cr(VI) concentrations in the LAPs' samples and Ecuadorian standards are unreliable.

STRATUS 1782 PROCEEDINGS

49. I became aware of Chevron's request for discovery under Section 1782 around February 2010. I was, at that time, prepared to make full disclosure and turn over documents requested regarding my role in the Cabrera Report and Cabrera Response. Indeed, I disclosed all material facts regarding my involvement in the Cabrera Report to my counsel, Joe Silver and Martin Beier, of Silver & DeBoskey.

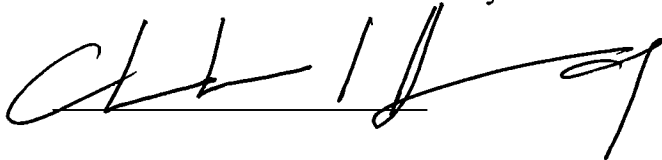
50. For all of my reports and testimony, I based my opinions and conclusions on a series of assumptions and data provided to me by Donziger and the LAPs' representatives that I do not know to be true. In addition, I now believe that the damages assessment in the Cabrera Report and Cabrera Response is tainted. Therefore, I disavow any and all findings and conclusions in all of my reports and testimony on the Ecuador Project. Like my colleague Douglas Beltman, I deeply regret that I allowed myself to be used in the Lago Agrio Litigation in the way that I was, as detailed throughout this statement.

I state under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on March 21, 2013 in New York, New York.



ANN MAEST

Sworn to before me on this ^{22nd} ~~21st~~ day of March 2013



Notary Public

CHEIKH S. DIENG
Notary Public, State of New York
No. 01DI6271613
Qualified in New York County
Commission Expires Nov. 05, 2016

