

**Showdown in the Ecuadoran Jungle;  
Rare Class-Action Pollution Trial Pits Indians Against U.S. Oil Company**

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Under a warm setting sun, a half-dozen children gathered Tuesday around a plastic tub filling with water from a tube snaking from the ground. Women washed clothes under the spout, smacking shirts and pants against planks to dry them as the children played.

The makeshift well near the Aguarico River here in northern Ecuador is part of the dirty legacy of decades of oil drilling in an ecologically rich region of the Amazon basin, much of it carried out by a company then known as Texaco Inc.

Although surrounded by rain-swollen rivers, this community of Cofan Indians now trusts only water drawn from deep in the ground by their tiny well. For years, they have watched family members and friends grow sick from drinking or bathing in the contaminated river water.

Now the Cofan -- whose ancestral homeland has been severely reduced by oil-driven development -- and thousands of other indigenous Ecuadorans are finally confronting the huge U.S. company they blame for polluting their jungle.

In a stuffy courtroom in this dilapidated frontier town, a class-action trial began Wednesday that could have far-reaching consequences for the environmental movement, U.S. corporations doing business overseas and poor Ecuadorans who have never had a voice in their country's judicial system.

"Always we have counted on water from the Aguarico, until it was contaminated," said Toribio Aguinda, a Cofan leader from the riverside village of Cofan Dureno, 15 miles east of here. "We have asked them for help in the past. But they have always forgotten us."

Lawyers for ChevronTexaco Corp., formed in 2001 from the merger of Texaco and Chevron Corp., deny the company is liable. "We think that the allegations against the company are false, and are not backed up by credible evidence," Ricardo Veiga, vice president and general counsel of ChevronTexaco Latin America Products, told reporters Wednesday in Quito, the capital.

The trial, which follows a decade of legal maneuvering in the United States, convenes at a time when hostility to free trade and foreign corporations is rising in many parts of Latin America. Last week, the president of Bolivia was driven from office by protests over his free-market economic policies.

The oil case was originally filed in New York, but was sent here in August 2002 by the U.S. Court of Appeals for the 2nd Circuit, which ruled that the Ecuadoran judicial system's decision would be legally binding on the parent corporation in the United States. Environmental attorneys say it is among the first cases worldwide in which a U.S. court has recognized as binding a foreign court's jurisdiction over a U.S. company for damaging the environment.

The plaintiffs are 30,000 indigenous Ecuadorans who allege that their lives and livelihoods were damaged by Texaco's operations here from 1971 to 1992, a period in which the company extracted 1.5 billion barrels of oil from the region.

The plaintiffs, a few dozen of whom rallied here Tuesday wearing traditional red face paint and feathered headdresses, estimate that the cleanup costs they seek from the company would exceed \$1 billion.

The central allegation of the case is that Texaco failed to use "accepted industry standards" to dispose of 18.5 billion gallons of wastewater in a region of virgin jungles, tropical wetlands and broad Amazon tributaries.

As part of an international consortium, Texaco drilled 323 oil wells and dug 627 pits for use in the drilling or production process during the period in question. Most of the pits were unlined, both sides agree, and the plaintiffs allege that toxic waste leached into the streams and rivers that most of the 500,000 people who live in the region rely on for household water.

At the time, Ecuador had no environmental protection law specifically governing its oil industry, which today accounts for 20 percent of its economy and generates most of its foreign exchange. The national legislature passed a measure in 1999 that holds oil companies responsible for cleaning up pollution from past operations; the company says it intends to challenge the retroactive application of the law.

In 1992, Texaco sold its stake in the enterprise to a fellow member of the consortium, Petroecuador, the state oil company. In 1995, Texaco paid out \$40 million to clean up 207 pits holding toxic wastewater. That work was later certified by the Ecuadoran government, which the company holds up as proof that it fulfilled its obligations here. The company is also arguing that the plaintiffs cannot sue a company that ceased to exist after its merger with Chevron.

Oil industry experts hired by the plaintiffs say the practice of dumping wastewater into unlined pits was outlawed in the United States in the 1950s and 1960s, and accuse Texaco of continuing the practice here to increase profits.

"It was Texaco that was running the operation, it was Texaco that designed the system, and it was Texaco that profited," said Steven Donziger, a New York attorney helping to represent the plaintiffs.

Company lawyers say Texaco's local subsidiary, TexPet, run by a succession of U.S.-based executives during the two decades under examination, earned roughly \$500 million in profits in that period. Plaintiffs' attorneys say that does not include proceeds from sales on the international market, which they estimate brought Texaco billions more in profits.

Ecuador produces roughly 400,000 barrels of oil a day, most of it bound for the West Coast of the United States. The northern Oriente region that borders Colombia is the richest in oil. But little of the royalties return to the community in the form of schools, health clinics or modern plumbing. Instead, many indigenous leaders contend, the highways and industry built to support oil development have ruined more than 2 million acres of pristine jungle and traditional ways of life.

Oil production "did huge damage to our natural resources, [and] it also brought colonization," said Elias Piyahuaje, 47, a leader of the Secoya Indians who rallied outside the courthouse in a

lavender tunic, red facial markings and a length of walnut shells across his chest. "It is something that changed the world of the Secoyas."

In a court filing Wednesday, the plaintiffs submitted a survey financed by Petroecuador that attempted to assess the human cost of the oil production. Of 1,017 families surveyed, 957 said they had been "affected" by the oil industry, a category encompassing illness, loss of land and livestock, and contamination of natural resources.

The courthouse here seems an unlikely venue for what environmentalists have called "the trial of the century."

It is old and run-down, and as the trial got underway, chants of "The criminals, contaminators of Texaco. . . Leave now!" filtered in from the street past a cordon of riot police.

The courtroom is up four flights of stairs, and is roughly half the size of a tennis court. A fan buzzed over the voices of attorneys who sat behind small metal desks on either side of the cramped room. The judge presided from a dais, a garish painting of waterfalls and jungles behind him.

Donziger described the legal process as something from "early 1700s France." Each side submits witness lists and questions to the judge, who decides whom to call and what to ask. The trial will include a field trip by the judge to some of the sites, including those Texaco says it cleaned up but which Donziger says a recent study conducted for the plaintiffs shows are still polluted. A ruling by the judge will likely take months; appeals could follow.

Along the rushing Aguarico River, where Cofan Indians have lived for 80 years in a village carved from the jungle, Aguinda will wait out the trial impatiently. Frustration has boiled up from the community in the past -- once in 1986 when residents blocked construction of a nearby oil-industry highway, then again five years ago when they occupied a nearby oil installation to demand that the state clean up their land.

On a recent afternoon, the village seemed a peaceful place of scampering children, plank homes on stilts, and banana groves. But food is scarce for the village's 82 families, several residents said, with fewer fish in the rivers and development scaring off monkeys and other game from the jungle. Intestinal ailments persist among villagers, they said.

"Nature is our God," Aguinda said as he strolled along a soccer field with bamboo goal posts that serves as the village square. "What we want is all of this cleaned up because all of this is contaminated."