

EXECUTIVE SUMMARY

This document is a Rebuttal to the Judicial Inspection Report for Sacha 18 well site prepared by plaintiffs' expert Mr. Robalino. Mr. Robalino submitted his report to the Superior Court of Justice of Nueva Loja on May 18, 2005.

Mr. Robalino's report contains serious technical errors as well as erroneous allegations made without any kind of support, which demonstrate his biased opinion. This rebuttal includes a summary of the key errors found in his report. A more detailed analysis of each of these key errors is presented in the Rebuttal document submitted to the Court. The appendices at the end of the Rebuttal contain technical documents that support the statements presented in this Rebuttal.

PIT 1 IS PETROECUADOR'S RESPONSIBILITY

The plaintiffs' expert pretends that Pit 1 is Texpet's responsibility. Mr. Robalino makes an atrocious mistake when he misinterprets an aerial photo and incorrectly claims that Pit 1 had been closed as of 1990, and therefore is Texpet's responsibility.

[Note: In accordance with the contract between the Government of Ecuador, Petroecuador, and Texpet, pits that remained open when Petroecuador took control of the operations in 1990, but were closed by Petroecuador before Texpet remediated the sites in the mid 1990s, became responsibility of Petroecuador]

Three different aerial photos taken in 1990 are presented in the Rebuttal document, including the same aerial photo that Mr. Robalino used, which clearly show that the pit remained open as of 1990. Later, when Texpet implemented the remediation program in 1995 and 1996, the pit had already been closed by Petroecuador and in accordance with the agreement between the Government of Ecuador, Petroecuador, and Texpet, established in the Remedial Action Plan (RAP), Pit 1 became the responsibility of Petroecuador.

In any case, the concentrations of constituents found in the Pit 1 soil samples are below criteria applicable to this site.

MR. ROBALINO USES ERRONEOUS CRITERIA TO EVALUATE THE SITE CONDITIONS

To compare his sample concentrations, the expert uses criteria that did not exist when remediation was performed on the pits, intentionally ignoring the Ecuadorian and international criteria applicable to the site. The appropriate criteria were established in the Remedial Action Plan (known as RAP), and were approved by the Ecuadorian government and Petroecuador before the remediation was performed.

THE AREA AROUND SACHA 18 WELL DOES NOT CONTAIN THE CONTAMINATION THAT THE EXPERT INTENDS TO ATTRIBUTE TO TEXPET.

In his report, the plaintiffs' expert tries to attribute to Texpet any contamination that he believes is present, even if it is a product of his imagination and biased opinion. The expert's objective seems to be that of finding evidence to demonstrate, at any cost, that Texpet contaminated the areas, but it can easily be determined that he can not support his allegations. When Mr. Robalino presents analytical results, he misinterprets them, either for lack of technical knowledge, or because he tries to deceive the Court. Thus, for example, the following can be mentioned:

- Mr. Robalino's analytical results do not demonstrate that there is contamination that can be attributed to Texpet. Pit 1, as indicated above, is Petroecuador's responsibility. In Pit 2, the average TPH soil concentration reported by Mr. Robalino is 2679 mg/kg, which is below the criteria used during the time in which the remediation was performed, which was approved by the Ecuadorian government and Petroecuador.
- The results of a more detailed groundwater assessment performed by another expert appointed by the Court, Mr. Fernando Morales, clearly demonstrate that there are no impacts associated with petroleum constituents, as these substances are below the criteria applicable to this site; this is the case even in the drinking water wells found in the dwellings near the well.
- The volume of soil to be remediated and the remediation costs proposed by Mr. Robalino are arbitrary values. The plaintiffs' expert did not present any of the backup data that he used to base his estimates, as any responsible engineer would have done, clearly because his figures are arbitrary, completely based on his subjective, biased judgment, and not based on facts.
- Since the oil has little mobility, and it is degraded, the traces of oil found at the well site are not migrating as suggested by the plaintiffs' expert.
- Mr. Robalino attempts to blame Texpet for any hydrocarbon traces, ignoring that Texpet stopped operating in this area in 1990 and that for the last 15 years, the only company operating the well has been Petroecuador. This clearly illustrates the plaintiffs' expert's desire to blame Texpet, at any cost, for the petroleum residues found in the area.

CONTRARY TO WHAT MR. ROBALINO SUGGESTS, THERE ARE NO HEALTH RISKS ASSOCIATED WITH TEXPET'S ACTIVITIES

- Mr. Robalino does not perform an adequate risk evaluation at the site. The expert should have considered that for risk to exist, there must be: a) a hazard, for example, average concentration of a substance above a risk-based criteria, b) a route of exposure, and c) receptors, people who could be exposed. Instead of analyzing whether these factors exist, Mr. Robalino simply limits his evaluation to comparing the constituent concentrations to the incorrect evaluation criteria and later, without performing an adequate risk analysis, he irresponsibly calls them "toxic" substances.

- Mr. Robalino uses the term “contamination” to refer to the mere presence of petroleum. From a strictly scientific point of view, this term is only valid when it is used to refer to concentrations that exceed appropriate evaluation criteria and present a real and quantifiable health risk. For that reason, not only should representative samples be analyzed, but it should also be determined if average constituent concentrations could be harmful, if prolonged exposure to these substances exists, and if there is a connection between the substances and the petroleum operations. If these requirements are not met, then there is no risk.

To arrive to a real and trustworthy concept of risk through the field work performed during the judicial inspections, the following data should be gathered for the following types of samples:

- surface soils that could come in contact with a person, animal, or plant
- deeper soils that could leach constituents to groundwater, and
- groundwater that could have been impacted by petroleum.

IN 1996 TEXPET PERFORMED APPROPRIATE PIT REMEDIATION

- Ignoring scientific data and photos which clearly show that Texpet performed the remediation work properly and in accordance with the appropriate Work Plan (known as RAP, Remedial Action Plan), and without support, Mr. Robalino attempts to question the remediation work done by Texpet during the mid 1990s. No evidence exists that contradicts the fact that Texpet used appropriate remediation techniques and obtained the Ecuadorian government’s approval upon successful completion of the remediation activities.