

## **EXECUTIVE SUMMARY - Well Shushufindi 48**

The following is a summary of the most serious technical errors made by the plaintiffs' expert, Dr. Charles Calmbacher, in his Judicial Inspection report submitted to the Superior Court of Justice of Nueva Loja on March 8, 2005.

Dr. Calmbacher's report is plagued with erroneous and arbitrary allegations made without technical support. The following is a summary of the most significant errors found in Dr. Calmbacher's report, which are strong evidence of his biased opinion and clear intention of favoring the plaintiffs, even when the evidence demonstrates the opposite. A complete Rebuttal detailing the errors outlined below has been submitted to the Ecuadorian Court.

### **THE CONTAMINATION THAT DR. CALMBACHER INTENDS TO ATTRIBUTE TO TEXPET DOES NOT EXIST.**

In his report, Dr. Calmbacher attributes to Texpet any impacts that he finds at the site. However, Dr. Calmbacher does not present appropriate evidence that can support his false allegations. When the plaintiffs' expert presents analytical data, he misinterprets the data, either due to lack of technical knowledge, or in a blatant attempt to deceive the Court. For example, the following errors have been identified:

- Dr. Calmbacher did not analyze a single sample from Pit 2, however, in his report, he uses the results from another pit as if they were results from Pit 2.
- All the samples that Dr. Calmbacher collected from Pit 5 yielded analytical results are below his own cleanup criteria. Nevertheless, the plaintiffs' expert maintains that Pit 5 needs to be remediated.
- The plaintiffs' expert deliberately ignores the remediation criteria required by the Government of Ecuador which were established in 1995, prior to implementation of the remediation activities, and instead arbitrarily uses criteria promulgated many years after the pits were remediated.
- The plaintiffs' expert did not take composite samples and did not calculate average constituent concentrations.
- The "*volume of soil to be remediated*" proposed by Dr. Calmbacher is a fabricated value. His volume of soil to be remediated includes soils from pits that he did not sample (e.g., Pit 2) and soils from pits that have concentrations below his own cleanup criteria (e.g., Pit 5). The "*depth of contamination*" he used to calculate the "*volume of soil to be remediated*" is completely arbitrary, not based on analytical data.
- The remediation costs that the plaintiffs' expert proposed is 10 times higher than the typical remediation costs in other parts of the world, including Ecuador.
- The traces of oil found at the site have little mobility and are highly degraded. Contrary to what the plaintiffs' expert suggested, these traces of oil are not migrating.
- Dr. Calmbacher attempts to use any traces of oil found at the site to blame Texpet, ignoring that Texpet ceased operations in this area in 1990, and that for the last 15 years, Petroecuador has been the sole operator in the area. This clearly illustrates the expert's biased desire to blame Texpet, at any cost, for any petroleum residues that may be found in the area.

### **THERE ARE NO HEALTH RISKS IN THE AREA**

- Dr. Calmbacher did not evaluate the risks that may exist at this site. The plaintiffs' expert should have taken into consideration that for a risk to exist there must be: a) a hazard, for example, a substance concentration that is above a health-based criterion, b) an exposure route, and c) receptors, people who could be exposed to the hazard. Instead of determining if these conditions existed, the plaintiffs' expert simply limited his evaluation to comparing the chemical concentrations to erroneous cleanup criteria, and later, without performing a risk assessment, he irresponsibly claimed that these substances were affecting public health.
- The plaintiffs' expert used the term "contamination" to refer to the mere presence of petroleum. This term should be used only to refer to constituent concentrations that exceed appropriate evaluation criteria, and only when those constituents present a risk to human health, a risk that is real and measurable. Therefore, Dr. Calmbacher should have collected samples that are representative of the site, analyzed them using proper analytical methods, determined if the constituent concentrations were harmful, and determined if there is a connection between these substances and the petroleum operations. Exposure duration is also an important component that Dr. Calmbacher did not take into account.
- Dr. Calmbacher, on the other hand, endangered his own sampling team by requiring them to wear excessive personal protection equipment. Due to the hot and humid conditions of the area, the protective equipment selected by Dr. Calmbacher not only was unnecessary, but also dangerous. This was simply a sensationalist act designed to attract public attention, and to deceive the Court.

### **TEXPET APPROPRIATELY REMEDIATED THE SITE IN 1996 AND 1997.**

- Ignoring analytical data, photos and other scientific proof which demonstrate that Texpet remediated the site appropriately and in accordance with the Work Plan, Dr. Calmbacher tries to question the remediation work done by Texpet in the mid 1990s. The plaintiffs' expert did not present any proof that contradicts or questions the fact that Texpet used appropriate remediation techniques, met the remediation objectives and obtained the Ecuadorian government's approval upon finishing the remediation work.
- The plaintiffs' expert erroneously indicates that the water discharged from the pits during the remediation work contaminated the area. The discharged water was tested and discharged in 1996 in accordance with Ecuadorian regulations for water. Dr. Calmbacher uses erroneous criteria to evaluate the concentrations of substances in water discharged in 1996.