EXECUTIVE SUMMARY

This document is a rebuttal to the Judicial Inspection Report performed on Shushufindi Suroeste Station on September 8, 2004 by plaintiffs' expert Mr. Oscar M. Dávila. Mr. Davila performed the Judicial Inspection on September 8, 2004, and submitted his report to the Superior Court of Justice of Nueva Loja on February 28, 2005.

Mr. Davila's report contains serious technical errors as well as erroneous allegations made without any kind of support, which demonstrate his biased opinion. The following is a summary of the most significant errors found in Mr. Davila's report. A more in-depth analysis of each of these points is presented in the Rebuttal document submitted to the Court of Nueva Loja.

THE AREA AROUND SHUSHUFINDI SUROESTE STATION DOES NOT CONTAIN THE CONTAMINATION THAT THE EXPERT ATTRIBUTES TO TEXPET.

In his report, the plaintiffs' expert attempts to attribute to Texpet any contamination that he assumes to be present, without any basis. The plaintiffs' expert asserts that such evidence exists and attempts to demonstrate, at any cost, that Texpet contaminated the areas. However, the report clearly demonstrates that he has no such evidence to support his allegations. When Mr. Davila presents analytical results, he misinterprets them, either from lack of technical knowledge, or in a deliberate attempt to deceive the Court. Thus, for example, the following can be mentioned:

- **The analytical results presented by Mr. Davila do not demonstrate that there is contamination that can be attributed to Texpet.** Mr. Davila only analyzed two soil samples and three surface water samples. None of the samples indicated the presence of benzene, toluene, ethylbenzene or xylenes (BTEX), or polycyclic aromatic hydrocarbons (PAHs). Total petroleum hydrocarbons (TPH) were also not detected, with the exception of one soil sample. Therefore, Mr. Davila does not have justification to allege that extensive "contamination" exists, that the soil volume to be remediated is more than 33,000 cubic meters and that more than 6.5 million dollars will be needed to remediate the "contaminated" areas. In reality, Mr. Davila did not have sufficient analytical data to support his exaggerated claims, and the few samples that he did analyze demonstrate the opposite; that the "contamination" that he describes does not exist.

- **Mr. Davila unsuccessfully attempts to use another expert's analytical results.** When the plaintiffs' expert realized that his own lab results did not support his biased opinion, Mr. Davila tried to use Mr. Ernesto Baca's lab results (Mr. Baca is another expert appointed by the Court for this Judicial Inspection). Mr. Davila uses the lab results presented by Mr. Baca, but he distorts reality when he asserts that certain petroleum substances are above the evaluation criteria, when in reality those constituents were not even detected. In other instances, Mr. Davila didn't bother to make a technical evaluation to determine if there is a risk associated with the concentrations of constituents presented by Mr. Baca.

- **Mr. Davila attempts to use any hydrocarbon traces to immediately blame Texpet, ignoring the fact that Texpet stopped operating in this area in 1990, and that for the last 15 years, the only company operating in this area was Petroecuador.** This clearly illustrates the expert's desire to blame Texpet, at any cost, for any petroleum residues he believes exist in the swamp.

- **The plaintiffs' expert does not have sufficient evidence to assure that a spill occurred before 1990, and that the swamp was formed as a result of this spill.** The expert used his imagination and creativity when he presented what he calls "aerial photography analysis". However, his analysis was unfair, subjective and full of errors. Based on these photos, the expert could not have determined, for example, if what he called "brine" contained heavy metals, or if the gas contained high sulfur concentrations. Moreover, the expert could not have determined that a spill occurred prior to 1990. In the Rebuttal document, it is demonstrated that the plaintiffs' expert could have never made these interpretations based on aerial photos. No spills were reported prior to 1990 in the Shushufindi Suroeste Station; therefore, available historical information do not support Mr. Davila's allegations. On the other hand, the plaintiffs' expert ignores the fact that there have been four spills in the Shushufindi Suroeste Station since 1990, which supports the conclusion that Texpet is not responsible for the petroleum found in the swamp.

CONTRARY TO WHAT MR. DAVILA SUGGESTED, THERE AREN'T ANY HEALTH RISKS ASSOCIATED WITH TEXPET'S OPERATIONS.

- **The plaintiffs' expert does not analyze the risk that exists in this site.** In his report, Mr. Davila presents a section titled "Health Impacts". This section is nothing more than a copy of general information obtained from Internet sites (ToxFAQs™ information sheets), which the plaintiffs' expert includes "as is", without an introduction or a discussion of its applicability to the site. Mr. Davila intentionally omitted an important part of the ToxFAQs™ information sheets he used, which clearly states that "*The effects of exposure to any hazardous substance depends on the dose, the duration, how you are exposed, personal traits and habits, and whether other chemicals are present*". Mr. Davila should have also stated the general principles of risk assessment.

  In reality, the risk Mr. Davila suggests does not exist. In order for risk to exist there should also be a route of exposure ("how you are exposed"), substance concentrations that represent a risk must be present ("the dose") and there must be a receptor or people exposed to the substance. For example, the domestic drinking water well samples taken by Mr. Baca, another expert appointed by the Court for the Judicial Inspection of this site, show that the water wells used for consumption do not contain hydrocarbon concentrations that could affect human health. Mr. Davila, on the other hand, did not present any analytical results for these wells.

- Mr. Davila uses the term "contamination" to refer to the mere presence of petroleum, instead of using it to refer to substance concentrations that exceed the appropriate international evaluation criteria and that present a risk to humans, a real and measurable risk. For that reason, not only samples that are representative of the site that is being

evaluated should be analyzed, but it should also be determined if the average substance concentrations could be harmful, and if there's a connection between the substances and the petroleum operations. In addition, samples with elevated concentrations of certain components could only be harmful if exposed to them for a prolonged period of time. If each and every one of these requirements is not met, then there is no risk.

TEXPET OPERATED THE SITE APPROPRIATELY, IN A MANNER CONSISTENT WITH ACCEPTABLE PRACTICES

Mr. Davila tries to find any evidence to demonstrate that Texpet operated irresponsibly, alleging that the operational practices that Texpet followed were not acceptable. Mr. Davila is totally wrong.

- **Texpet discharged produced water appropriately.** The produced water was treated prior to discharging, and not as the expert, without any evidence, alleges. The discharge also took place in compliance with Ecuadorian laws of that time, and consistent with practices of the rest of oil-producing countries.

- **Texpet operated flares appropriately.** During the time of the Petroecuador - Texpet partnership, flaring of gases was performed in accordance with the law, following Ecuadorian laws of that time, and in a manner consistent with practices in the rest of the oil-producing countries. In any case, it is important to keep in mind that natural gas has always been under the control of the Government of Ecuador, who has always owned the natural gas. The Petroecuador – Texpet partnership never had control of the gas.

THE ORIGIN OF THE OIL IN THE SWAMP IS UNCERTAIN, BUT THE SWAMP WAS FORMED NATURALLY, AND THE VEGETATION HAS RECOVERED

- The plaintiffs' expert misinterpreted the aerial photos. What can be determined, based on the aerial photos, is that the swamp has existed as a natural drainage, at least since 1975 or even before.

- The vegetation is in a state of recovery. If the vegetation was affected by produced water that was discharged to the swamp, once produced water reinjection was initiated and the discharges to the swamp ceased, the vegetation effectively recovered, and today more than 95% of the swamp area is covered with vegetation.

- Instead of being beneficial, any remediation would cause more environmental damage. The petroleum is degrading at a very fast pace, this degradation can be measured on swamp sediment samples, and it is also documented by studies performed by other investigators in other areas of the world. For a place such as this where petroleum is degrading rapidly and the conditions have reached stability, it is better to allow natural

degradation to clean the soil, as has been successfully happening since the spill occurred.

The details and the points hereby summarized are included in the Rebuttal document submitted to the Court. In this document it is demonstrated that Mr. Davila makes erroneous interpretations, either because he is wrong, or because he wants to justify his biased ideas which favor the plaintiffs.